

MEMORANDUM

TO: BOSTON REDEVELOPMENT AUTHORITY and
STEPHEN COYLE, DIRECTOR

FROM: JOSEPH J. NOONAN, ASSISTANT DIRECTOR FOR
MANAGEMENT AND BUDGET and
BERNICE McLENNAN, DIRECTOR OF HUMAN RESOURCES

SUBJECT: APPLICATION FOR RETIREMENT UNDER PROVISIONS
OF MGL CHAPTER 32, SECTION 58 -
FORMER EMPLOYEE ARTHUR G. COFFEY

Arthur G. Coffey, former Assistant General Counsel for the BRA, has requested that the BRA approve his Veteran's Application for Retirement under the provisions of General Laws, Chapter 32, Section 58, as of April 18, 1980 (see attached letter from Judge Coffey dated 11/29/90, Attachment I). Veterans with 30 years of service of the Commonwealth, or of any county, city, town or district or any housing or redevelopment authority, including service prior to June 30, 1939, are eligible to retire under the provisions of General Laws, Chapter 32, Section 58.

On August 9, 1973, the BRA voted to accept Sections 56 through 60 of Chapter 32 of the General Laws (Attachment II).

On December 12, 1990, the Director of Human Resources requested from Chief General Counsel Robert McNeil an opinion of Arthur Coffey's eligibility (Attachment III). Mr. McNeil's reply (Attachment IV) dated January 3, 1991 states that Mr. Coffey is eligible for a pension under MGL C. 32, Section 58, subject to BRA Board approval.

On January 24, 1991, Commissioner John J. Glynn of the Division of Public Employment Retirement Administration wrote that their review was complete and a pension and survivorship allowance was verified (Attachment V).

Approval is therefore requested for the retirement of Arthur G. Coffey in accordance with the applicable provisions of MGL C. 32, Sections 56-60 (Attachment VI) as per the following vote.

VOTED: To approve the retirement of Arthur G. Coffey in accordance with the applicable provisions of Massachusetts General Laws, Chapter 32, Sections 56-60 as amended based upon his application, documentation and other evidence presented by Arthur G. Coffey; and further

VOTED: To authorize the Director to execute appropriate applications, acknowledgements and certifications concerning this retirement.

Personnel #10 - Application for Retirement - Former Employee -
Arthur G. Coffey - January 30, 1991



THE COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
MIDDLESEX COUNTY DIVISION
PROBATE AND FAMILY COURT DEPARTMENT
EAST CAMBRIDGE 02141

ARTHUR G. COFFEY
JUSTICE

November 29, 1990

Boston Redevelopment Authority
1 City Hall Square
City Hall
Boston, Massachusetts 02201

Dear Board Members,

I was employed by the Boston Redevelopment Authority from January 1, 1968 until April 18, 1980 as Assistant General Counsel. On April 19, 1980, I was appointed Associate Justice in the Probate and Family Court Department of the Commonwealth of Massachusetts. At the time of my appointment I waived my retirement allowance from the Boston Redevelopment Authority/City of Boston until February 22, 1991 (when I will be 70 years old-mandatory retirement). At the time of my appointment as a judge I was not entitled to collect my pension from the Boston Redevelopment Authority/City of Boston as I was employed by the Commonwealth of Massachusetts.

Prior to my employment with the Boston Redevelopment Authority I had been in the service of the City of Boston first beginning on December 1, 1937 as a school aid under the National Youth Administration and ending as Director of Administration Services for City of Boston on January 1, 1968. My total service in the City of Boston and Boston Redevelopment Authority is thirty-one (31) years.

I now request that the Boston Redevelopment Authority approve my veteran's application for retirement under the provisions of General Laws, Chapter 32 Section 58, as of April 18, 1980, (the last day I was on active service at the Boston Redevelopment Authority).

Sincerely,

Arthur G. Coffey
Arthur G Coffey

AGC/amg

ATTACHMENT II

Veterans Retiring
Under Section 58

7

To: The Boston Redevelopment Authority

From: Robert T. Kenney, Director

Subject: Acceptance by the Authority of the Benefits of Chapter 207 of the Acts of 1973 by an Act Further Defining the Retirement Rights of Certain Veterans Employed by Redevelopment Authorities

Date: August 9, 1973

On April 20, 1973, His Excellency, Governor Sargent, approved Chapter 207 of the Acts of 1973 which had been enacted by the current Legislature. This Act provides similar retirement benefits for veteran Redevelopment Authority employees as are now available to veteran employees in the service of the Commonwealth or any County, City, Town, District or Housing Authorities.

Sections 56 through 60, of Chapter 32 of the General Laws, has for many years provided retirement benefits for veteran employees who are in the State Retirement System prior to June 30, 1939. In 1965, Chapter 32 was further amended to include Housing Authorities in order to give Housing Authority veterans the same benefits available to veteran employees of Commonwealth Cities, Towns or Districts. Redevelopment Authorities were not included in the 1965 amendment. Chapter 207 of the Acts of 1973 includes veteran employees of all Redevelopment Authorities.

Section 6 of Chapter 207 of the Acts of 1973 stipulates that the said Act shall not be in effect until it is accepted by Redevelopment Authorities.

Accordingly, the acceptance of Chapter 207 of the Acts of 1973 by the Boston Redevelopment Authority is required before the benefits can be made available to qualified veteran employees.

The following vote is recommended for consideration by the Authority in accepting the benefits of Chapter 207 of the Acts of 1973:

VOTED: That Sections 56 to 60 inclusive of Chapter 32 of the General Laws as amended, be, and they hereby are, accepted as permitted by Chapter 207 of the Acts of 1973.

FILE COPY

MENT

MORANDUM

December 12, 1990

TO: Robert McNeil
Chief General Counsel

FROM: Bernice McLennan
Director of Human Resources *BN*

SUBJECT: APPLICATION FOR RETIREMENT UNDER PROVISIONS
OF MGL CHAPTER 32, SECTION 58 -
FORMER EMPLOYEE ARTHUR G. COFFEY

Arthur G. Coffey, former Assistant General Counsel for the BRA, has requested that the BRA approve his Veteran's Application for retirement under the provisions of General Laws, Chapter 32, Section 58, as of April 18, 1980 (see attached letter from Judge Coffey dated 11/29/90, Attachment I). Veterans with 30 years of service of the Commonwealth, or of any county, city, town or district or any housing or redevelopment authority, including service prior to June 30, 1939, are eligible to retire under the provisions of General Laws, Chapter 32, Section 58.

On August 9, 1973, the BRA voted to accept Sections 56 through 60 of Chapter 32 of the General Laws (Attachment II).

The purpose of this memorandum is to request an opinion as to Arthur Coffey's eligibility for retirement under the provisions of MGL Chapter 32, Section 58. Attached is the evidence of eligibility submitted by Arthur Coffey including:

(Attachment III) An Affidavit dated 11/28/90 by Arthur G. Coffey

(Attachment IV) An Affidavit dated 11/28/90 by John E. Driscoll

(Attachment V) A 4-page excerpt from the Roxbury Memorial Boys High School Year Book, Class of 1939.

(Attachment VI) Letter dated 12/15/89 from National Personnel Records Center to Arthur G. Coffey.

(Attachment VII) A 2-page letter dated 12/13/89 from Arthur G. Coffey to Thelma Martin at the National Personnel Records Center, attached to which is a 1-page transcript for Leo Docley (3 pages in all).

Page Two
December 12, 1990

(Attachment VIII) Letter dated 12/22/89 from National Records Center to Arthur G. Coffey.

(Attachment IX) City of Boston Personnel Record for Arthur G. Coffey (2 pages).

(Attachment X) Letter dated 4/18/80 from Arthur G. Coffey to State-Boston Retirement and Collector-Treasurer of the City of Boston.

(Attachment XI) Certificate of Service dated 2/20/86 for Arthur G. Coffey from Commonwealth of Massachusetts Military Archivist attached to which is copy of Discharge, Enlisted Record and Report of Separation (2 pages in all).

(Attachment XII) Veterans application for Retirement dated 4/18/80.

(Attachment XIII) Election of Option dated 4/18/80, attached to which is a Birth Certificate for Arthur G. Coffey; a Birth Certificate for Betty-Lou Banister (2 pages) and a marriage license for Arthur G. Coffey and Betty Lou Banister (2 pages).

Since the BRA Board must approve the retirement of Arthur G. Coffey in accordance with the applicable provisions of Chapter 32, I am requesting your opinion of his eligibility prior to submission of the application to the Board.

/sd
Attachments

BCC: P. McCann

MEMORANDUM

TO: Bernice McLennan, Director of Human Resources

FROM: Robert F. McNeil, Chief General Counsel *RFM*
Ralph F. Cahill, Assistant General Counsel *RFC*
Office of General Counsel

DATE: January 3, 1991

RE: Application for retirement under provisions of MGL
Chapter 32, Section 58 - former employee Arthur G.
Coffey

In reply to your request for an opinion as to Arthur Coffey's eligibility for retirement under the above-captioned Section, it would appear that approval needed by the BRA Board is necessary in order for him to qualify for a pension under MGL c.32, Section 58. With respect to the reimbursement of the funds which he has contributed to the retirement fund, approval from the Retirement Board would be required.

The following section is pertinent with respect to the reimbursement aspect:

Chapter 32, Section 25 provides the following:

"Rights of Veterans at Retirement. - (a) Any member in service classified as a veteran referred to in sections fifty-six to sixty A inclusive, who entered employ of any governmental unit prior to July first, nineteen hundred and thirty-nine, shall have full and complete rights either under the system of which he is a member or under the provisions of sections fifty-six to sixty A inclusive, whether or not he may have signed a waiver of his rights under such sections upon becoming a member of such system, anything to the contrary in the provisions of this chapter or in similar provisions of earlier laws notwithstanding. Such rights shall be in the alternative and shall be exercised only at the time of his retirement. If a member is retired under the provisions of sections fifty-six to sixty A inclusive, he shall, upon his written application on a prescribed form filed with the board in which he waives all his rights under sections one to twenty-eight inclusive, be paid the amount of the accumulated total deductions credited to his account in the annuity savings fund of the system on the date of his retirement."

In reviewing the information forwarded to us, in your request for an opinion, the following conclusions are made:

1. An employee must be a veteran within the meaning of Chapter 32, Section 1. Judge Coffey's military record shows length of service from April 21, 1942 to November 16, 1945.

2. An employee must have been in the employ of the Commonwealth or a subdivision for a total period of thirty (30) years. Judge Coffey's attached record shows employment with the City and the BRA from February 8, 1950 to April 18, 1980.
3. An employee must be in active service at the time of his retirement. Judge Coffey was in active service and eligible when he left the BRA in 1980. Did he waive these benefits by waiting until now to file his application? We do not believe so as he could not under law work as a Judge for the Commonwealth and collect City retirement and in this case he is not seeking any additional compensation, but only that the application be retroactive to April 1980 when he in fact did retire from the BRA.

Ralph spoke with Barbara Phillips, Attorney for State Division of Public Employee Retirement Administration (727-9380), and Jim Callahan, Executive Secretary of State Retirement Board (367-7770) who informed Ralph that based upon the facts in Arthur Coffey's case he is entitled to Judge's retirement based upon years of service as a Judge and also entitled to the non-contributory pension of Section 58.

They further stated that normal procedure would be to file application for retirement in 1980 when he left the BRA service and waive benefits until he actually retires. Failure to do this is a mere technicality and there is nothing in the law that prohibits him from doing it now.

4. Section 60 requires employment prior to June 30, 1939, in order to be entitled to Section 58 Non-Contributory Pension. The attached opinion of the case of LaCouture v. Retirement Board of Quincy, 419 NE2d 1052 is in point here when employment under the National Youth Administration ("NYA") satisfied Section 60 even though payment came from the United States because work was performed for the City under the supervision of a City employee.

The question of evidentiary proof arises in Judge Coffey's case as the records were destroyed and the record only contains an Affidavit of a fellow student. Ralph discussed this issue with Charles R. Curran of the City's Retirement office who informed Ralph that their policy has been in the absence of an official record, to bring in preferably two disinterested persons to testify as to the record. We think this policy should be followed in this case.

In conclusion, it is the opinion of the Office of General Counsel that upon review of all the documents submitted and a review of the pertinent statute and case law, that Mr. Arthur Coffey is not eligible for a pension, under MGL c.32, Section 58, subject to BRA Board approval.

cc: Paul McCann, Executive Assistant to the Director



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

JOHN W. MCCORMACK BUILDING

ROOM 1101

ONE ASHBURTON PLACE • BOSTON, MA 02108

727-9380

JOHN J. MCGLYNN
COMMISSIONER

JOSEPH I. MARTIN
FIRST DEPUTY COMMISSIONER
BARBARA J. PHILLIPS
COUNSEL

January 24, 1991

Bernice McLennan
Director of Human Resources
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

Dear Ms. McLennan:

This Division is in receipt of the documents submitted in connection with the application of Arthur Coffey for a veteran's retirement pursuant to the provisions of G.L. c. 32, s. 58B, to become effective February 22, 1991.

Pursuant to G.L. c. 7, s. 50, this Division has reviewed the documentation of pre-1939 employment and military service which are prerequisite to such an application.

Please be advised that our review is completed and that a pension allowance of \$18,859.68 and a survivorship allowance of \$12,573.12 are hereby verified by this Division.

Sincerely,

John J. McGlynn
Commissioner

JJM/BP/cmr
0070R

Enclosure

cc: Boston Retirement Board

VETERAN'S INFORMATION SHEET

TO BE FILED WITH PERA BY THE RETIREMENT BOARD WHEN A MEMBER APPLIES FOR BENEFITS UNDER SECTION 58 OR 58B OF CHAPTER 32 OF THE MASSACHUSETTS GENERAL LAWS.

VETERAN'S INFORMATION SHEETDate January 18, 1991

The _____ Retirement Board hereby certifies that we have reviewed the application of Arthur G. Coffey and voted on the day of _____ to grant benefits in accordance with section 58B of said Chapter 32.

<u>Arthur G. Coffey</u>	<u>February 22, 1921 (70)</u>
Name of member	Date of birth
April 18, 1930 <u>2/22/91</u>	<u>\$34,851.92</u>
Date of retirement	Compensation at Retirement
<u>Betty L. Coffey</u>	<u>May 10, 1923 (67-9)</u>
Name of Spouse	Date of birth

To facilitate the approval of this application, enclosed are the following:

- (X) Copies of documents establishing the veteran status of the applicant
- (X) Copies of documents establishing whether the applicant was employed and paid for the rendering of his or her services by the Commonwealth of Massachusetts prior to June 30, 1939
- (X) A statement of years of creditable service, along with all known service dates

TO BE COMPLETED BY PERA UPON APPROVAL

Pension granted under section 58B
 Amount of Allowance \$ 18859.68

Survivor allowance granted under section 57B
 Amount of Allowance \$ 12573.12

11
RETIREMENT SYSTEMS AND PENSIONS

Attachment I
IF 30
32 § 56

Historical Note

St.1912, c. 447, § 3.

§ 55. Acceptance subject to mayor's veto

The action of any city council in regard either to the acceptance of sections fifty-two and fifty-three or to the retiring of any veteran under authority thereof shall be subject to veto by the mayor and to passage over his veto in the manner provided by the charter of the city.

Historical Note

St.1912, c. 447, § 4.

VETERANS OF SPANISH AND WORLD WARS

§ 56. Retirement if incapacitated

Any veteran, as defined in section one, in sections fifty-six to sixty, inclusive, and a veteran, who is in the service of the commonwealth, or of any county, town or district or any housing authority or any redevelopment authority thereof, shall be retired, with the consent of the retiring authority, if incapacitated for active service, at one half of the highest annual rate of compensation including any bonuses paid in lieu of additional salary or as a temporary increase in addition to his regular compensation, and including any allowance for maintenance, payable to him while he was holding the grade held by him at his retirement, and payable from the same source; provided, that he has been in the said service at least ten years, with a further allowance of one per cent of said annual rate of compensation for each additional year of service, but not to exceed sixty-five per cent in any case; and further provided, that he has a total income from all sources, exclusive of such retirement allowance and of any sum received from the government of the United States as a pension for war service, not exceeding one thousand dollars.

Any allowance for maintenance referred to in this section or in section fifty-seven or fifty-eight, if received otherwise than as a cash payment, shall be in an amount equal to the value thereof as fixed by the personnel administration. If the veteran is in the employ of the commonwealth, by the county personnel board if the veteran is in the employ of a county, and by the retiring authority if the veteran is in the employ of a city, town or district.

Added by St.1943, c. 514, § 1; St.1945, c. 677; St.1947, c. 453, § 1; St.1948, c. 665; St.1949, c. 602; St.1950, c. 668, § 1; St.1965, c. 498, § 1; St.1973, c. 207, § 1; St.1974, c. 835, § 137.

Historical Note

St. 1954, §§ 1, 4.
St. c. 261.

32 § 56

CIVIL SERVICE

RETH

St.1943, c. 514, § 2, approved June 11, 1943, inserted "highest" and substituted ", including any allowance for maintenance, payable to him while he was holding the grade held by him at his retirement" for "paid to him at the time of retirement".

Section 4 of St.1943, c. 514, provides:

"This act shall apply to the retirement allowances of veterans subject to any provisions of sections fifty-six to fifty-eight, inclusive, of chapter thirty-two of the General Laws, as amended by sections one to three, inclusive, of this act, retired since December thirty-first, nineteen hundred and twenty, and prior to the effective date of this act, as well as to those retired on or after said effective date."

St.1945, c. 677, approved July 23, 1945, added the second paragraph.

St.1947, c. 453, § 1, approved May 24, 1947, substituted "one thousand" for "five hundred" at the end of the first paragraph.

St.1948, c. 665, § 1, approved June 18, 1948, and by § 5 made effective Oct. 1, 1948, inserted "including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and".

Section 4 of St.1948, c. 665, provides:

"This act shall apply to the retirement allowances of veterans, subject to any provisions of sections fifty-six to fifty-eight, inclusive, of chapter thirty-two of the General Laws, as amended by sections one to three, inclusive, of this act, retired since January first, nineteen hundred and forty-eight, and prior to the effective date of this act, as well as to those retired on or after said effective date."

St.1949, c. 602, approved July 25, 1949, in the first paragraph substituted "A veteran, as defined in section one" for "A person who has served in the army, navy, or marine corps of the United States in the Spanish war or Philippine insurrection between April twenty-first, eighteen hundred and ninety-eight, and July fourth, nineteen hundred and two, or in the

world war between April sixth, nineteen hundred and seventeen, and November eleventh, nineteen hundred and eighteen, and has been honorably discharged from such service or released from active duty therein".

St.1950, c. 668, § 1, approved July 24, 1950, in the first paragraph substituted "with a further allowance of one per cent of said annual rate of compensation for each additional year of service, but not to exceed sixty-five per cent in any case; and further provided, that he" for "has reached the age of fifty and".

St.1965, c. 498, § 1, approved May 24, 1965, inserted "or any housing authority" in the first paragraph.

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General Laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2].

St.1965, c. 680, § 2, an emergency act, was approved Sept. 7, 1965, and by § 3 made effective as of Aug. 22, 1965.

St.1973, c. 207, § 1, approved April 20, 1973, inserted "or any redevelopment authority" in the first paragraph.

St.1974, c. 835, § 137, approved Aug. 13, 1974, and by § 185 made effective July 1, 1975, substituted "personnel administrator" for "director of personnel and standardization" in the second paragraph.

St.1974, c. 835, amended this section in conformity with establishment by the act of a division of personnel administration in the executive office for administration and finance. See c. 7, § 4A, and the Historical Note thereunder.

Cross References

Wartime service, see c. 4, § 7.

Code of Massachusetts Regulations

Public employee retirement administration, approval of retirement board decisions, notice commissioner, see 840 CMR 9.02.

Library References

Municipal Corporations ¶162(1), 220(9).
States ¶64.1(1).
WESTLAW Topic Nos. 268, 360.

C.J.S. Municipal Corporations §§ 523 et seq.
727.
C.J.S. States §§ 104 to 115.

See V

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RETIREMENT SYSTEMS AND PENSIONS

32 § 56
Note 4

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

- Acceptance of act 3
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bringing his action under one of the sections, cannot recover. *Horrigan v. Mayor of Pittsfield* (1937) 11 N.E.2d 585, 298 Mass. 492.

4. Veteran status

Section 7 of chapter 4 which by denial of veterans' status to conscientious objector precluded him from eligibility for large number of veterans' benefits was in direct conflict with federal statutory scheme which now places no sanctions on person in service becoming conscientious objector during course of tour of active duty, and said statute was accordingly invalid. *Reynolds v. Dukakis* (D.C.1977) 441 F.Supp. 646.

Federal policy now protects rights of servicemen on active duty to free exercise of religion without any attendant loss of status or any loss of veterans' benefits, and state therefore cannot constitutionally continue to withhold veterans' benefits from such persons who avail themselves of federally provided opportunity to exercise religious beliefs. *Id.*

General Court intended benefits of statute required in wartime service in armed forces as creditable service for retirement purposes, to be provided for veterans who in truth and in fact were reinstated or re-employed, and not for benefit of those who were not actually so reinstated or re-employed. *Op.Atty.Gen.* July 27, 1961, p. 32.

Elected official, who is a veteran, remaining in service after attainment of maximum age for retirement, may retire thereafter as a veteran despite his election of option concerning joint and life survivor allowance under contributory retirement system. *Op.Atty.Gen.* Dec. 10, 1958, p. 53.

A person who was inducted into the service on the twenty-first day of July, 1918, and was discharged from the draft at Camp Devens, Massachusetts, by military authority on the twenty-ninth day of July, 1918, by reason of physical incapacity, was never really accepted by the military authorities nor was he ever given the prescribed oath for those actually entering the military service, therefore such person is not entitled to veteran status for the purposes of retirement. *Op.Atty.Gen.* March 15, 1949, p. 64.

The word "veteran" as used in § 57 of this chapter, is limited by force of the specific description of a veteran set forth in this section, and does not include a veteran of world war II. *Op.Atty.Gen.* July 24, 1946, p. 16.

Validity

Legislature could confer on veterans of Spanish War a preference in classified civil service, carrying with it privilege of pension. *G.L.*1921, c. 32, §§ 56 to 60, as amended *St.*1923, c. 386, which provided for retirement at one-half salary, was not unconstitutional, particularly in view of § 83, and chapter 31, §§ 21 to 28. *Rich v. Kimball* (1925) 147 N.E. 586, 252 Mass. 213.

2. Purpose of law

Offer of pension to certain veterans who serve the governmental units of the Commonwealth accomplishes two purposes: it provides veterans and their families with an opportunity to obtain a measure of economic security; and it seeks to induce potentially eligible veterans to remain in public employment and to render efficient service while there. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Acceptance of act

Under Veterans' Retirement Act, veteran who entered governmental services before June 30, 1939 and remains in such service for certain number of years is eligible to receive pension from governmental unit from which he retires, at no cost to himself; however, such provisions are not mandatory for all governmental units in Commonwealth but are only in effect in any county, city, town or district which has accepted them. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Where a city fails to validly accept the provisions of §§ 56 to 59 of this chapter a petitioner,

32 § 56

Note 5

5. Employees

Definition of "employee" in § 1 of this chapter regarding retirement systems and pensions has no application to "veterans" entitled to retire under §§ 56 to 60 of this chapter relevant to retirement and pension of veterans of Spanish and world wars. *La Couture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

Where in view of determination of supreme judicial court, that employee who was world war veteran was not member of county retirement system, it seemed unlikely that any further deductions from his compensation would be made, an injunction would not be granted; *G.L. (Ter.Ed.) c. 32, § 60*, as amended by *St. 1937, c. 102, § 2*, which was in effect when Smith became an employee, provided that a veteran whose employment first began after June 30, 1937, should not be subject to said sections 56 to 59, inclusive. *Davis v. Retirement Board of Middlesex County* (1942) 43 N.E.2d 330, 312 Mass. 115.

6. Widows

Widows of public employees retired under this section and section 57 of this chapter are entitled to allowances provided for in section 101 of this chapter, as amended. *Op.Atty.Gen.*, Jan. 9, 1973, p. 69.

7. Creditable service

Under Veterans' Retirement Act, three kinds of service are creditable for purposes of length of service requirement: remunerative service in employ of governmental units under §§ 56, 57 and 58 of this chapter; service as reserve police officer or call fire fighter under § 57B of this chapter; and under this section, military service if veteran, on discharge, is reemployed in public sector within two years. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Under the provisions of *St.1968, c. 601*, enacted as section 59A of this chapter, where a portion of a veteran's pension is based on creditable service in a governmental unit other than the paying unit, the other unit is obligated to reimburse the paying unit for such portion, notwithstanding that the other unit has not accepted the provisions of this section and sections 57 to 59 of this chapter, the Veterans' Retirement Act; and the other unit is required to make an annual appropriation to satisfy such obligation. *Op.Atty.Gen.*, Oct. 27, 1969, p. 61.

Veteran, employed both by state and city during the same period, is entitled to credit for such period only for single veterans' pension either from the state or from the city. *Op.Atty. Gen.* Dec. 17, 1958, p. 60.

8. War service

Meaning of "war service" in this section and § 57 is controlled by definition of "wartime service" appearing in c. 4, § 7 and c. 31, § 21. *Op.Atty.Gen.* Sept. 12, 1957, p. 25.

9. Approval of retiring authority

Under this section the approval of the retiring authority does not by itself retire the applicant. *Op.Atty.Gen.* July 8, 1953, p. 21.

A person, in the active service of the commonwealth, who was eligible for retirement under this section, and who applied for retirement and received the approval of the retiring authority, was not retired from active service within the meaning of that statute, notwithstanding that said person was immediately appointed to another position in the service of the commonwealth without interruption of his active service or salary then or to date. *Id.*

10. Right to retirement and pension

Chapter 33, § 94 relating to status and right to compensation of persons temporarily employed by the armed forces did not have any application to this section and §§ 57 to 60 of this chapter governing veterans' pensions. *Ha-beeb v. Retirement Bd. of Quincy* (1982) 443 N.E.2d 411, 15 Mass.App. 902, affirmed 451 N.E.2d 704, 389 Mass. 634.

The reading of the Civil Pension Act respecting retired public employees clearly shows that Legislature has tended to favor employees who suffered incapacity resulting from injury incurred in course of their employment as against those who were incapacitated not in that course, and that Legislature has intended to prefer veterans over nonveterans. *Johnson v. Town of Milton* (1965) 212 N.E.2d 451, 349 Mass. 736.

Where retired town laborer, a veteran, had no occasion at time of original retirement to prove cause of disability, it was competent for court to take testimony as to origin of disability in determining retired laborer's application for increase in pension under *St.1962, c. 646*, authorizing \$300 increase to retired persons who had been disabled because of condition arising out of employment. *Id.*

Mayor's approval of act of board of aldermen in attempting to retire on veteran's pension a disabled police officer, who was a veteran, did not entitle officer to veteran's pension, where mayor made no express reference to applicable statute. *Horrigan v. City of Framingham* (1936) 199 N.E. 382, 293 Mass. 17.

One entering employ of city after establishment of retirement system did not have pension rights as world war veteran. *Fulmer v. City of Boston* (1929) 165 N.E. 684, 267 Mass. 1.

RETIREMENT SYSTEMS AND PENSIONS

32 § 56

Note 13

St.1954, c. 627 did not deprive members of Boston's four percent retirement system of the right to retire under the provisions of this section. Op.Atty.Gen. Aug. 18, 1954, p. 49.

The retirement benefits under St.1952, c. 624, § 2, do not apply to veterans who receive their retirement benefits under the provisions of these sections. Op.Atty.Gen. Aug. 3, 1953, p. 27.

The incapacity of a veteran subject to the Civil Service Law (G.L.(Ter.Ed.) c. 31), does, by the terms of St.1941, c. 708, § 2, prevent his restoration to his office or position, but it does not oust him from the "service of the commonwealth" for the purposes of retirement. Op. Atty.Gen. Feb. 3, 1944, p. 121.

A person who has been in the employ of the soldiers home in Massachusetts since 1921, and who is not a civil war veteran, is not entitled to be retired under the provisions of this section, in as much as such employee does not have 10 years of creditable service in the service of the commonwealth; the commonwealth not assuming complete control of the soldiers home until 1934. Op.Atty.Gen. Oct. 20, 1941, p. 121.

A veteran may retain his membership in retirement association until time for retirement arrives, but when that time comes he must choose between the two systems, since he cannot retire under both, even assuming he can qualify under both. 5 Op.Atty.Gen.1920, p. 634.

11. Amount of allowance

The amount determined by the director of personnel and standardization under § 22 of this chapter, as an employee's compensation for the purpose of determining an employee's salary for retirement deductions and under this section, for determining the salary of a veteran for retirement purposes, can exceed the amount of salary fixed by the grade in the salary schedule applicable to the employee's position under § 46 of this chapter. Op.Atty. Gen. Dec. 13, 1948, p. 51.

The change provided for in this section and §§ 57, 58 of this chapter, inclusive, by St.1943, c. 514, § 4, does not require the recomputation of the retirement allowances paid to retiring veterans since December 31, 1920, or the payment of any differences between the new computation and the amount paid over the entire period. Op.Atty.Gen. Sept. 7, 1943, p. 73.

Retirement allowances payable after September 10, 1943, the effective date of St.1943, c. 514, are to be computed on a basis which includes past maintenance, and any allowance before such date should be computed on a basis which does not include maintenance. Id.

All retirement allowances paid under the provisions of this section and §§ 57, 58 of this

chapter should be readjusted in accordance with St.1943, c. 514, and retirement payments made after the effective date of the new act should be made on the new basis. Id.

12. Highest annual compensation

Word "rate" means valuation of something based on comparison with some standard, and, as used in this section providing for retirement allowance to retired city employee computed as 65% of the highest annual "rate" of compensation is to be construed with reference to its context and the result intended to be accomplished. *Smith v. City of Lowell* (1956) 136 N.E.2d 186, 334 Mass. 516.

Where there was no one qualified and available to relieve chief engineer in water department of city, and he was required to work seven days each week, and, according to compensation schedule, he received a certain amount for five days of work week, one-fifth of that amount for sixth day, and one and one-half times that amount for seventh day, none of the money received by him could properly be considered payment for "overtime", which could not be considered in computing his rate of retirement compensation under statute, though he was permitted to work short hours on Sunday, though compensation for work in excess of five days was carried on city's books as overtime, and though portion of his compensation was paid from appropriation for overtime. Id.

Extra emergency compensation given municipal employees because of increased cost of living was to be considered a part of their "highest annual compensation" for purpose of computing patrolman's retirement pay. *Selectmen of Brookline v. Allen* (1950) 90 N.E.2d 903, 305 Mass. 482.

A veteran state employee shall receive a pension which amounts to one half of the highest rate of compensation payable to him while he was holding the grade held by him at his retirement, not one half of the highest rate of compensation paid to him while he was holding a different job as a state employee. Op.Atty.Gen. Oct. 9, 1945, p. 54.

13. Value of maintenance

The provisions of this section, as added by St.1945, c. 677, did not authorize or require the director of personnel and standardization to establish on the effective date of c. 677, the value of maintenance for those veterans who had been previously retired, the valuation already set up as to their maintenance remaining without fluctuation, but the said director was authorized and required, after the effective date of c. 677, to establish such values for maintenance to be paid as part of the compen-

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sation of veterans thereafter retired. Op.Atty. Gen. Dec. 15, 1947, p. 37.

14. Source of payment

Retired veterans who were employed by the department of labor and industries, division of employment security, and who received their compensation entirely from federal grants made for the purpose of taking care of the administration of the division of employment security, should also receive their retirement allowances from the same federal grants. Op. Atty.Gen. May 4, 1948, p. 70.

15. Federal and state projects

Where, under National Youth Administration program, designated officials of participating institutions were to be responsible for determining compliance of rates of pay with regulations and participating school had authority to direct in all significant details what student did and how he did it, it was immaterial, for purpose of including employment under program in determining honorably discharged veteran's entitlement to veteran's retirement benefits under this chapter, that checks which he received when student under such program were paid to him directly by United States, and

thus he met requirement for veteran's retirement of having begun his employment by city, through program, prior to statutorily prescribed date. *La Couture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

Housing authority which conducted both federal and state housing projects and charged 77.4% of administration expenses to federal projects and balance to state projects and which accepted state statutory retirement provisions for its employees was obligated to pay full pension payments allowed by statute to retired employee even though federal agency refused to pay the share of pension allowance allocable to federal administration expenses. *Flanagan v. Lowell Housing Authority* (1969) 248 N.E.2d 2, 356 Mass. 18.

16. Declaratory relief

Veteran would not be required irrevocably to seek and obtain retirement before ascertaining by litigation what his pension would be and thus exercise of discretion to afford declaratory relief was appropriate. *La Couture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

§ 57. Retirement after ten years' service

A veteran, including an army nurse, who has been in the service of the commonwealth, or of any county, city, town or district or any housing authority or any redevelopment authority thereof, for a total period of ten years in the aggregate, may, upon petition to the retiring authority, be retired, in the discretion of said authority, from active service, at one half of the highest annual rate of compensation, including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and including any allowance for maintenance, payable to him while he was holding the grade held by him at his retirement, and payable from the same source, with a further allowance of one per cent for each additional year of service over ten, but not to exceed sixty-five per cent in any case, if he is found by said authority to have become incapacitated for active service; provided, that he has a total income from all sources, exclusive of such retirement allowance and of any sum received from the government of the United States as a pension for war service, not exceeding one thousand dollars.

Amended by St.1943, c. 514, § 2; St.1947, c. 453, § 2; St.1948, c. 665, § 2; St.1950, c. 668, § 2; St.1954, c. 627, § 12; St.1965, c. 498, § 2; St.1973, c. 207, § 2.

Historical Note

St.1920, c. 574, § 2.

St.1923, c. 386.

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St.1943, c. 514, § 2, approved June 11, 1943, substituted "including any allowance for maintenance, payable to him while he was holding the grade held by him at his retirement" for "paid to him at the time of retirement".

Section 4 of St.1943, c. 514, provides: This act shall apply to the retirement allowances of veterans subject to any provisions of sections fifty-six to fifty-eight, inclusive, of chapter thirty-two of the General Laws, as amended by sections one to three, inclusive, of this act, retired since December thirty-first, nineteen hundred and twenty, and prior to the effective date of this act, as well as to those retired on or after said effective date."

St.1947, c. 453, § 2, approved May 24, 1947, substituted "one thousand" for "five hundred".

St.1948, c. 665, § 2, approved June 18, 1948, and § 5 made effective Oct. 1, 1948, inserted in the aggregate "and any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and including".

Section 4 of St.1948, c. 665, provides: This act shall apply to the retirement allowances of veterans, subject to any provisions of sections fifty-six to fifty-eight, inclusive, of chapter thirty-two of the General Laws, as amended by sections one to three, inclusive, of this act, retired since January first, nineteen

hundred and forty-eight, and prior to the effective date of this act, as well as to those retired on or after said effective date."

St.1950, c. 668, § 2, approved July 24, 1950, inserted "with a further allowance of one per cent for each additional year of service over ten, but not to exceed sixty-five per cent in any case,".

St.1954, c. 627, § 12, an emergency act, approved June 10, 1954, inserted "including an army nurse".

St.1965, c. 498, § 2, approved May 24, 1965, inserted "or any housing authority".

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General Laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2].

St.1965, c. 680, § 2, an emergency act, was approved Sept. 7, 1965, and by § 3 made effective as of Aug. 22, 1965.

St.1973, c. 207, § 2, approved April 20, 1973, inserted "or any redevelopment authority".

Cross References

Wartime service, see c. 4, § 7; c. 31, § 1.

Library References

- Counties 69(3).
- Municipal Corporations 162(1), 220(9).
- Officers and Public Employees 94.
- Schools 63(5).
- States 64.1(1).
- Towns 29.
- WESTLAW Topic Nos. 104, 268, 283, 345, 360, 381.
- Counties § 130.

- C.J.S. Municipal Corporations §§ 523 et seq., 727.
- C.J.S. Officers and Public Employees §§ 99, 219, 222, 227.
- C.J.S. Schools and School Districts §§ 118, 149, 150.
- C.J.S. States §§ 104 to 115.
- C.J.S. Towns §§ 71, 72.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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32 § 57

Note 1

1. Validity

Legislature can confer on veterans of Spanish war a preference in classified civil service, carrying with it privilege of pension, and G.L. 1921, c. 32, §§ 56 to 60, as amended by St. 1923, c. 386, providing for retirement at one-half salary, are not unconstitutional, particularly in view of § 83 of this chapter, and G.L. c. 31, §§ 21 to 28. *Rich v. Kimball* (1925) 147 N.E. 586, 252 Mass. 213.

2. Right to pension

A veteran, having been retired under the provisions of this section, is entitled to receive the pension due him as a veteran, however he is not entitled to a retirement allowance from the teachers retirement fund in addition to his veteran's pension, even though he contributed to that fund. *Op. Atty. Gen.* July 9, 1941, p. 101.

3. Veteran status

Section 7 of chapter 4 which by denial of veterans' status to conscientious objector precluded him from eligibility for large number of veterans' benefits was in direct conflict with federal statutory scheme which now places no sanctions on person in service becoming conscientious objector during course of tour of active duty, and said statute was accordingly invalid. *Reynolds v. Dukakis* (D.C. 1977) 441 F. Supp. 646.

Federal policy now protects rights of servicemen on active duty to free exercise of religion without any attendant loss of status or any loss of veterans' benefits, and state therefore cannot constitutionally continue to withhold veterans' benefits from such persons who avail themselves of federally provided opportunity to exercise religious beliefs. *Id.*

A veteran retiring under this section providing for retirement because of disability after ten years' service was not allowed additional retirement credits for military service in excess of seven years in Army of United States. *Op. Atty. Gen.* July 28, 1959, p. 31.

The word "veteran" as used in this section is limited by force of the specific description of a veteran set forth in § 56 of this chapter, and does not include a veteran of world war II. *Op. Atty. Gen.* July 24, 1946, p. 16.

4. Public officers

Building inspector is entitled to benefit of provisions of G.L. 1921, c. 32, §§ 56 to 60 as amended by St. 1923, c. 386, and § 83, as to retirement of veterans when incapacitated, though a public officer, in view of G.L. 1921, c.

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143, § 6. *Rich v. Kimball* (1925) 147 N.E. 586, 252 Mass. 213.

5. Employees

Definition of "employee" in § 1 of this chapter regarding retirement systems and pensions has no application to "veterans" entitled to retire under §§ 56 to 60 of this chapter relevant to retirement and pension of veterans of Spanish and world wars. *La Couture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass. App. 738.

6. Widows

Widows of public employees retired under this section and section 56 of this chapter are entitled to allowances provided for in section 101 of this chapter, as amended. *Op. Atty. Gen.* Jan. 9, 1973, p. 69.

7. Incapacity

Taxpayers, attacking as illegal retirement of municipal employee with half pay under G.L. 1921, c. 32, §§ 56 to 60, as amended by St. 1923, c. 386, have right to contest question of employee's physical incapacity and question of his income, both of which are conditions precedent to eligibility for retirement, and hence bill denying incapacity and alleging income in excess of \$500 was not demurrable. *Rich v. Kimball* (1925) 147 N.E. 586, 252 Mass. 213.

8. Active service

Where an employee of the Housing Authority and in good standing in the city's contributory retirement system on June 24, 1952, was taken ill and went to the hospital and after he returned to work and while still actively employed, filed a claim for compensation because of heart attack for injuries sustained on the prior date and settlement agreement of the compensation claim expressly recited that the payment was "in redemption of liability for all weekly payments", such was no less a redemption of liability under c. 152, § 48 because initiated by the parties and subsequently approved by the department. *Gannon v. Contributory Retirement Appeal Bd.* (1959) 156 N.E.2d 654, 338 Mass. 628.

This section, authorizing the retirement of a veteran of the Spanish or world war from active service of the commonwealth or of a county, city, town or district thereof, contemplated the retirement only of persons still in active service at the time of retirement and not the purported retirement of a person who had previously been discharged, or for some reason separated from the service, would be invalid. *Kennedy v. City of Holyoke* (1940) 194 N.E.2d 786, 312 Mass. 248.

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erans' Retirement Act, three kinds of creditable for purposes of length of service: remunerative service in governmental units under §§ 56, of this chapter; service as reserve or call fire fighter, under § 57B; and, under this section, military veteran, on discharge, is reemployed in public sector within two years. *Kingston v. Town of Bedford* (1979) 321, 378 Mass. 562.

employed both by state and city for same period, is entitled to credit for only for single veterans' pension from the state or from the city. *Op. Atty. Gen.* 1958, p. 60.

who served as one of the public employees of the Boston elevated railway company, employ of the commonwealth, service should be accepted as creditable to meet the requirements of § 60 of the Retirement Law. *Op. Atty. Gen.* Feb. 25, 1955, p. 80.

the numerous duties imposed on a person whose entire service should be credited to him under § 60 of this chapter, only those dates on which he was employed as a special justice; a veteran who has capacity for a period in excess of ten years is entitled to retirement benefits under the retirement law. *Op. Atty. Gen.* 1955, p. 78.

employee has been validly removed from the service of the commonwealth, but is not, the time of separation from the service may not be counted as part of the period during which he may be considered to have been in the service of the commonwealth under the provisions of this section, if such removal was invalid and a subsequent reinstatement, the period of unemployment is not to be taken into account in computing the period of ten years' service. *Op. Atty. Gen.* Dec. 29, 1943, p. 101.

employee who had been employed by the commonwealth from 1939, when he was injured, and who has been receiving compensation under the provisions of G.L.(Ter.Ed.) § 69, is not eligible for retirement under the provisions of this section, requiring ten years' service before being eligible for retirement. *Op. Atty. Gen.* April 7, 1955, p. 101.

in the commonwealth for a period of ten years required of persons wishing to receive a pension, does not have to be taken into account. *Op. Atty. Gen.* March 15, 1941, p. 101.

10. Removal

Request for a public hearing, made by discharged assistant clerk of city board of public works, within the time allowed and subsequent waiver by discharged clerk of right to such hearing upon allowance by mayor of clerk's petition for retirement did not vitiate clerk's removal, or reinstate him in his employment so as to validate subsequent purported retirement on a retirement allowance. *Kennedy v. City of Holyoke* (1942) 44 N.E.2d 786, 312 Mass. 248.

Where mayor granted request of assistant secretary of city board of public works for retirement on a retirement allowance under statute authorizing such retirement of veterans of Spanish and world wars after the board had removed assistant secretary for inefficiency and gross misconduct, board's recognition of employee's status as retired could not have the effect either of reinstating employee so as to validate his retirement or of granting him a valid retirement allowance. *Id.*

11. Income limitation

Limitation of \$1,000 in total income from all sources, exclusive of retirement allowance and any sum received from federal government as pension for war service, contained in this section permitting veteran with ten years of service with city to retire at one-half of highest annual rate of compensation, was not a limitation on taxable income only; thus, city laborer, who received workers' compensation payments of \$170.42 per week from date of his disability until trial, received more than \$1,000 in total income from all sources and, thus, was not eligible for retirement benefits under this section. *Lochiatto v. Retirement Bd. of Newton* (App.1987) 505 N.E.2d 207, 23 Mass.App.Ct. 998.

12. Refunds from other sources

A person retiring under the provisions of this section, is not entitled to a refund of the amount of his contributions paid to the teachers retirement fund, unless he sought withdrawal of the fund before he became eligible for retirement. *Op. Atty. Gen.* July 9, 1941, p. 101.

13. Workers' compensation

A veteran who is receiving a pension under the provisions of these sections is subject to the provisions of G.L.(Ter.Ed.) 1932, c. 152, § 73, if he is entitled to receive a lump sum workers' compensation settlement as well as a pension as a veteran. *Op. Atty. Gen.* Dec. 16, 1955, p. 58.

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§ 57A. Certain provisions of sections 6, 8 and 16 applicable to certain veterans

The provisions of subdivision (3) of section six, the provisions of section eight and the provisions of subdivision (4) of section sixteen, shall apply to any veteran whose retirement is to become effective on or after January first, nineteen hundred and forty-six, under the provisions of section fifty-six or fifty-seven; provided, that the retiring authority shall act in place of the retirement board in the case of any such veteran so retired; and provided, that the expense of any medical examination of any such veteran shall be paid from the same source from which his compensation was paid.

Added by St.1945, c. 658, § 8.

Historical Note

St.1945, c. 658, § 8, was approved July 23, 1945.

Section 11 of St.1945, c. 658, provides:

"This act, except as herein otherwise specifically provided, shall take effect January first, nineteen hundred and forty-six."

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Appeal 4
Creditable service 2
Veterans 1
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1. Veterans

The word "veteran" as used in this section, means a person who has served in the armed forces of the United States in time of war and has been honorably discharged therefrom. Op.Atty.Gen. March 11, 1949, p. 63.

Service in a provisional regiment at the officers' training camp at Plattsburg, New York, from May 12, 1917, to August 10, 1917, does not constitute service in the armed forces of the United States in time of war. Op.Atty.Gen. March 11, 1949, p. 63.

2. Creditable service

A veteran who has thirty years of creditable service and who will be 70 years of age in the middle of January, 1956, can be retired under the provisions of this section, with the approval of the retiring authority, even though he continues on the payroll until the end of January, and he will also be entitled to receive all of his accumulated deductions as provided by § 25 of this chapter. Op.Atty.Gen. Dec. 30, 1955, p. 59.

A veteran who has been working for the Massachusetts Agricultural College which subsequently became the University of Massachu-

setts from the time in 1918 when the college became a state institution, can claim such time as creditable service towards his retirement even though his salary from that time until 1936 was paid from a trust fund financed by private dairy cattle interests. Op.Atty.Gen. July 22, 1954, p. 44.

A veteran who spent 28 years in the service of the commonwealth and two years in the service of the United States Army is not qualified for retirement under the provisions of this section. Op.Atty.Gen. March 18, 1941, p. 31.

3. Waiver

A waiver of retirement pay, given to the state by a former state employee subsequently employed at full time compensation in a different capacity for the state, protects the state against any subsequent demands which may be made by the employee for the retirement compensation waived. Op.Atty.Gen. April 27, 1943, p. 45.

A former state employee retired under the provisions of this section, can subsequently receive full time compensation from the state for employment in a different capacity provided he has waived all retirement compensation since the date of his retirement and continues to waive such retirement compensation during the whole period of such subsequent employment. Id.

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4. Appeal

Letter written by retired veteran to Governor, requesting to reconsider his decision, was

not appeal under provisions regarding retirement system and pension. Op.Atty.Gen. July 28, 1959, p. 31.

§ 57B. Police or fire department members; creditable service; effective date of section

Any member of a police or fire department of a city or town, who retires under the provisions of sections fifty-six to sixty, inclusive, and who was appointed a reserve police officer or call fire fighter shall, for the purpose of retirement, be entitled to count as creditable service such service as a reserve police officer or call fire fighter as the retiring authority shall determine.

This section shall take effect in a city having a Plan E charter when accepted by an affirmative vote of two thirds of the city council and approved by the city manager, in the case of other cities by a two-thirds vote of the city council and approval by the mayor and in a town by a majority vote at the annual town meeting.

Added by St.1963, c. 149.

Historical Note

St.1963, c. 149, was approved March 15, 1963.

Library References

Municipal Corporations §187(3), 200(2).
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations §§ 588, 589, 614, 615.

Notes of Decisions

In general 1

Town of Lexington v. Town of Bedford (1979) 393 N.E.2d 321, 378 Mass. 562.

In general

Failure to include requirement of acceptance of Veterans' Retirement Act by governmental unit from which reimbursement was sought was significant in § 59A of this chapter governing reimbursement by governmental unit paying pension under Act inasmuch as Legislature made this section and §§ 58C and 58D of this chapter subject to acceptance and did so explicitly, and legislative history indicated that prior proposals which made reimbursement subject to acceptance of Act by reimbursing unit had been rejected. Id.

Under Veterans' Retirement Act, three kinds of service are creditable for purposes of length of service requirement: remunerative service in employ of governmental units under §§ 56, 57 and 58 of this chapter; service as reserve police officer or call fire fighter under § 57B of this chapter; and, under this section, military service if veteran, on discharge, is reemployed in public sector within two years.

§ 58. Retirement after thirty years' service

A veteran who has been in the service of the commonwealth, or of any county, city, town or district or any housing authority or any redevelopment authority, for a total period of thirty years in the aggregate, shall, at his own request, with the approval of the retiring authority, be retired from active service at seventy-two per cent of the highest annual rate of compensation, including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and including any

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maintenance allowance, payable to him while he was holding the grade held by him at his retirement, and payable from the same source.

Amended by St.1943, c. 514, § 3; St.1948, c. 665, § 3; St.1950, c. 668, § 3; St.1965, c. 498, § 3; St.1968, c. 700; St.1973, c. 207, § 3.

Historical Note

St.1920, c. 574, § 3.

St.1943, c. 514, § 3, approved June 11, 1943, inserted "highest" and substituted ", including any maintenance allowance, payable to him while he was holding the grade held by him at his" for "paid to him at the time of".

St.1948, c. 665, § 3, approved June 18, 1948, and by § 5 made effective Oct. 1, 1948, inserted "in the aggregate" and "including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and".

Section 4 of St.1948, c. 665, provides:

"This act shall apply to the retirement allowances of veterans, subject to any provisions of sections fifty-six to fifty-eight, inclusive, of chapter thirty-two of the General Laws, as amended by sections one to three, inclusive, of this act, retired since January first, nineteen hundred and forty-eight, and prior to the effective date of this act, as well as to those retired on or after said effective date."

St.1950, c. 668, § 3, approved July 24, 1950, substituted "sixty-five per cent" for "one half".

St.1965, c. 498, § 3, approved May 24, 1965, inserted "or any housing authority".

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General Laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2].

St.1965, c. 680, § 2, an emergency act, was approved Sept. 7, 1965, and by § 3 made effective as of Aug. 22, 1965.

St.1968, c. 700, § 1, approved July 19, 1968, substituted "seventy-two" for "sixty-five".

Section 2 of St.1968, c. 700, provides:

"Notwithstanding any provision of law to the contrary, any veteran who, prior to the effective date of this act, was retired under the provision of section fifty-eight of chapter thirty-two of the General Laws shall have his annual pension adjusted, so as to comply with the provision of said section fifty-eight, as amended by section one of this act."

St.1973, c. 207, § 3, approved April 20, 1973, inserted "or any redevelopment authority".

Law Review Commentaries

Pensions, basis for computation and presumptions relative to annuities. Joseph C. Duggan, 3 Annual Survey of Mass. Law, Boston College, p. 181 (1956).

Resignation and retirement pay base. Joseph C. Duggan, 5 Annual Survey of Mass. Law, Boston College, p. 211 (1958).

Retirement of public officers and employees. Herbert P. Gleason, William H. Kerr, and Thomas H. Martin, 18 Annual Survey of Mass. Law, Boston College, p. 381 (1971).

Library References

Counties ⇨69(3).
Municipal Corporations ⇨162(1), 220(9).
Officers and Public Employees ⇨94.
Schools ⇨63(5).
States ⇨64.1(1).
Towns ⇨29.
WESTLAW Topic Nos. 104, 268, 283, 345, 360, 381.
C.J.S. Counties § 130.

C.J.S. Municipal Corporations §§ 523 et seq. 727.
C.J.S. Officers and Public Employees §§ 99, 219, 222, 227.
C.J.S. Schools and School Districts §§ 118, 149, 150.
C.J.S. States §§ 104 to 115.
C.J.S. Towns §§ 71, 72.

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RETIREMENT SYSTEMS AND PENSIONS

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Note 4

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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I. Construction and application

In this section governing eligibility for pension under Veterans' Retirement Act, phrase "any town" in provision governing years of service requirement includes towns which have accepted Act as well as those which have not. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

A. Veteran status

Section 7 of chapter 4 which by denial of veterans' status to conscientious objector precluded him from eligibility for large number of veterans' benefits was in direct conflict with federal statutory scheme which now places no sanctions on person in service becoming conscientious objector during course of tour of active duty, and said statute was accordingly invalid. *Reynolds v. Dukakis* (D.C.1977) 441 F.Supp. 646.

Federal policy now protects rights of service-members on active duty to free exercise of religion without any attendant loss of status or any loss of veterans' benefits, and state therefore cannot constitutionally continue to withhold veterans' benefits from such persons who avail themselves of federally provided opportunity to exercise religious beliefs. *Id.*

View of § 1 of this chapter, part-time public health physician, who during World War I was a medical student and who had enlisted in the Medical Department, Enlisted Reserve Corps, which was never called to active service, was not a "veteran" within meaning of this section. *Weiner v. City of Boston* (1971) 172 N.E.2d 96, 342 Mass. 67.

In order for party to be eligible for veteran's retirement pension, person must be a veteran within meaning of § 1 of this chapter, he must have been in the service of Commonwealth or subdivision thereof for a total of 30 years, and he must have been in active service at the time of retirement, and each of these three requirements is a condition precedent to eligibility for veteran's retirement pension. *Id.*

City having given preference to party's original appointment some 30 years ago by recognizing that he was a veteran was not estopped from claiming that he was not a veteran for retirement purposes. *Id.*

Whether plaintiff is entitled to enjoy benefits conferred by law on veterans depends on nature of military service rendered by him. *Weiner v. City of Boston* (1960) 19 Mass.App. Dec. 171.

3. Employment

Performance of snow removal and cleanup work after hurricane constituted "employment" prior to June 30, 1939, for purposes of determining whether veteran was entitled to retirement benefits under this section. *Glorioso v. Retirement Bd. of Wellesley* (1988) 518 N.E.2d 851, 401 Mass. 648.

The 255 hours which petitioner, a school superintendent, spent in janitorial service in November and December of 1938 and January of 1939 while he was a student at Massachusetts State College, now the University of Massachusetts, constituted "employment" within meaning of § 60 of this chapter. *Santucci v. Board of Selectmen of Palmer* (1976) 342 N.E.2d 722, 4 Mass.App. 785.

Especially in view of fact that this section providing pension for veteran who has been in service of city for total of 30 years provided that pension shall be computed at 65% of highest annual rate of compensation, each year of half-time employment of dentist by city must be considered as one year of required minimum 30 years of employment. *Bianchi v. Retirement Bd. of Somerville* (1971) 270 N.E.2d 792, 359 Mass. 642.

4. Employees

Definition of "employee" in § 1 of this chapter regarding retirement systems and pensions has no application to "veterans" entitled to retire under §§ 56 to 60 of this chapter relevant to retirement and pension of veterans of Spanish and world wars. *La Couture v. Retirement Bd.*

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ment Bd. of Quincy (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

5. Surviving spouse

Under § 95A of this chapter providing that annuities may be paid to beneficiaries of any official or employee who was retired under the provisions of any noncontributory retirement law and who had no right under "any such law" to elect that benefits thereunder be paid to a survivor, widow of employee was entitled to annuity where employee had retired under § 85E of this chapter governing retirement of policemen and firemen which contained no provision for election of benefits for a surviving spouse, though employee was also entitled to retire under § 58B of this chapter and this section, which prescribe alternative compensation plans, including provision for payment of annuities to certain survivors of retired veterans. *Devaney v. Town of Watertown* (1982) 430 N.E.2d 1237, 13 Mass.App. 927.

Where a veteran was entitled to retire but dies before applying for retirement and before accepting the option under section 58B, of this chapter, his widow is entitled to an adjustment of the allowance paid her in accordance with this section as amended in 1968. *Op.Atty.Gen.*, Oct. 18, 1968, p. 52.

Widow of a judge who was a veteran, and who died before enactment of § 65C of this chapter, making retirement benefits available to judge's widow, could claim benefits under § 58B of this chapter. *Op.Atty.Gen.* Feb. 7, 1961, p. 94.

6. Right to pension

Where employee meets statutory prerequisites for veterans' pension, appointing authority has no discretion to deny pension. *Zebrowski v. Town of Palmer* (App.1987) 502 N.E.2d 563, 23 Mass.App.Ct. 956, review denied 504 N.E.2d 1066, 399 Mass. 1103.

One who is eligible for benefits under the teachers' retirement system can alternatively choose benefits accorded by this section. *Santucci v. Board of Selectmen of Palmer* (1976) 342 N.E.2d 722, 4 Mass.App. 785.

Where city employee was required to join contributory pension system by certain date or risk loss of all future benefits for himself and his widow by relying solely on his pending appeal from denial of his request for retirement as veteran and, in applying for membership in contributory system, he expressly reserved his rights to pension as veteran, employee and his widow did not waive such rights by accepting benefits under contributory retirement system. *Bianchi v. Retirement Bd. of Somerville* (1971) 270 N.E.2d 792, 359 Mass. 642.

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Where city employee met all requirements for retirement as veteran, retirement board of city had no discretion to deny him such retirement. *Id.*

Veterans who have served as air technicians or caretakers in the Massachusetts National Guard may be retired under this section provided they have the requisite length of service and are in active service at time of retirement. *Op.Atty.Gen.*, Dec. 21, 1967, p. 146.

7. Creditable service

City laborer's casual employment of shoveling snow for a few days or his six-week stint with city in subsequent year did not constitute service for one year, for purposes of determining whether laborer had been in service of city for a total period of 30 years in the aggregate so as to be eligible for retirement benefits under this section. *Lochiatto v. Retirement Bd. of Newton* (App.1987) 505 N.E.2d 207, 23 Mass.App.Ct. 998.

Service for which fireman was compensated in amount of 80 cents by town prior to July 1, 1939, eligibility deadline in § 60 of this chapter constituted "employment" within meaning of such section; thus fireman, a military veteran, having met eligibility requirements of § 58 of this chapter, governing retirement after 30 years' service, was entitled to more favorable noncontributory retirement benefits. *Cardellicchio v. Board of Retirement of Natick* (1984) 463 N.E.2d 1174, 391 Mass. 760.

Under Veterans' Retirement Act, three kinds of service are creditable for purposes of length of service requirement: remunerative service in employ of governmental units under §§ 56, 57 and 58 of this chapter; service as reserve police officer or call fire fighter, under § 57B of this chapter; and under this section, military service if veteran, on discharge, is reemployed in public sector within two years. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Sheriff's unpaid service as a school committee member could not be included with his paid service as a sheriff in determining whether sheriff had sufficient service to entitle sheriff's widow to a pension from a noncontributory retirement system. *Sullivan v. Boston Retirement Bd.* (1971) 268 N.E.2d 678, 359 Mass. 228.

Veteran, employed both by state and city during the same period, is entitled to credit for such period only for single veterans' pension either from the state or from the city. *Op.Atty.Gen.* Dec. 17, 1958, p. 60.

Where a state employee, after over three years of military service, was dishonorably discharged, and upon re-enlistment was honorably discharged, such three years period

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creditable service within c. 32, §§ 58, 58A. Op. Atty.Gen. May 27, 1957, p. 83.

Service in the position of town moderator is the kind of service for which "creditable service" must be given under this section. Op. Atty.Gen. Feb. 28, 1957, p. 68.

8. Active service

Police officer was not in "active service" at time that he retired, and thus not entitled to veterans' pension, where he had been suspended, where he was informed that he would be discharged if he insisted on a statutory right to reinstatement at the end of the suspension period, and where he worked out agreement under which he received one week's vacation pay, dropped his appeal from the suspension, had the charges against him dropped, and agreed to retire immediately. *Zebrowski v. Town of Palmer* (App.1987) 502 N.E.2d 563, 23 Mass. App.Ct. 956, review denied 504 N.E.2d 1066, 39 Mass. 1103.

9. Approval of retiring authority

Unless veteran obtains for his retirement the approval of a duly authorized body he is ineligible for benefits under the Veterans' Retirement Act. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Under this section, retiring authority is given a purely ministerial role and statute does not vest retirement board with administrative power. *Hoban v. Boston Retirement Bd.* (1969) 246 N.E.2d 814, 355 Mass. 681.

Approval of city employee's veteran's pension claim by retiring authority was not conclusive. *Weiner v. City of Boston* (1961) 172 N.E.2d 96, 342 Mass. 67.

10. Highest annual compensation

A payment for unused accumulated sick leave received by a veteran in the year of his retirement was not to be included in computing veteran's retirement benefits under this section providing that eligible veteran shall be retired at 72 percent of the highest annual rate of compensation, including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation payable to him while he was holding the grade held by him at his retirement. *McKenna v. Retirement Bd. of Northampton* (1983) 447 N.E.2d 1264, 15 Mass.App. 987, review denied 451 N.E.2d 1166, 389 Mass. 1103.

11. Federal and state projects

Where, under National Youth Administration program, designated officials of participating institutions were to be responsible for determining compliance of rates of pay with regulations and participating school had authority

to direct in all significant details what student did and how he did it, it was immaterial, for purpose of including employment under program in determining honorably discharged veteran's entitlement to veteran's retirement benefits under this chapter, that checks which he received when student under such program were paid to him directly by United States, and thus he met requirement for veteran's retirement of having begun his employment by city, through program, prior to statutorily prescribed date. *La Couture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

Housing authority which conducted both federal and state housing projects and charged 77.4% of administration expenses to federal projects and balance to state projects and which accepted state statutory retirement provisions for its employees was obligated to pay full pension payments allowed by this section to retired employee even though federal agency refused to pay the share of pension allowance allocable to federal administration expenses. *Flanagan v. Lowell Housing Authority* (1969) 248 N.E.2d 2, 356 Mass. 18.

Under G.L.(Ter.Ed.) 1932, c. 32, § 58, which provided that retiring veterans should be paid 65 per cent of the "highest annual rate of compensation * * * payable to him while he was holding the grade held by him at his retirement," veteran who had served as teacher with title of "master" for as much as \$6,056 annually, and also had been paid \$1,800 annually for 200 days of coaching each year, was entitled to have both types of employment included in computing retirement pay, and hence was entitled to 65 per cent of \$7,856. *Murphy v. City of Boston* (1958) 150 N.E.2d 542, 337 Mass. 560.

Where there was no one qualified and available to relieve chief engineer in water department of city, and he was required to work seven days each week, and, according to compensation schedule, he received a certain amount for five days of work week, one-fifth of that amount for sixth day, and one and one-half times that amount for seventh day, none of the money received by him could properly be considered payment for "overtime", which could not be considered in computing his rate of retirement compensation under this section, though he was permitted to work short hours on Sunday, though compensation for work in excess of five days was carried on city's books as overtime, and though portion of his compensation was paid from appropriation for overtime. *Smith v. City of Lowell* (1956) 136 N.E.2d 186, 334 Mass. 516.

Word "rate" meant valuation of something based on comparison with some standard, and, as used in this section providing for retirement

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allowance to retired city employee computed as 65% of the highest annual "rate" of compensation was construed with reference to its context and the result intended to be accomplished. *Id.*

12. Reimbursement from another unit

Governmental unit has no obligation to reimburse other unit for portion of pension paid under § 59A of this chapter unless pension on which claim for reimbursement rests is paid to claimant eligible under the Act. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

13. Increases in pension

Except for the \$6,000 aggregate amount of a pension for years beginning after Dec. 31, 1969, certain prior increases in pensions of veterans who have already retired from public service have not been replaced by and consolidated into the 7% increase provided by this section so that this latter increase represents the only addition that can now be made in veterans basic pension amounts. *Op.Atty.Gen.*, Dec. 2, 1968, p. 75.

14. Disability

There is no requirement of disability under this section. *Op.Atty.Gen.* July 28, 1959, p. 31.

§ 58A. Wartime service in armed forces as creditable service

A veteran eligible to retirement under section fifty-six, fifty-seven or fifty-eight, who was employed in the service of the commonwealth, or any county, city, town or district or any housing authority or any redevelopment authority thereof, prior to his entry into wartime service as defined in section one of chapter thirty-one, and upon whose discharge or release therefrom was reinstated or reemployed within two years in his former position or in a similar position or when employed in any governmental unit in a position which is subject to the provisions of sections one to twenty-eight, inclusive, shall have credited to him as creditable service the period of his wartime service until the date of his discharge or release from such service, which shall include credit for any actual service in the armed forces between January first, nineteen hundred and forty and the termination of the Selective Service Act of 1948; provided, however, that such service shall not be construed to include service for more than four years unless such further period of service in excess of four years was involuntary service required by the government of the United States or unless such service in excess of four years was rendered prior to July first, nineteen hundred and sixty-four and such veteran was reinstated or reemployed on or before June thirtieth, nineteen hundred and sixty-six.

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15. Jurisdiction

Contributory Retirement Appeal Board lacked jurisdiction over veteran's claim for retirement benefits after 30 years' service as town fire fighter; although M.G.L.A. c. 32, § 16 provides for appeal to Board in cases involving retirement due to incapacity, there is no similar provision under this section granting retirement benefits to those veterans retiring after 30 years' service to governmental unit. *Glorioso v. Retirement Bd. of Wellesley* (1988) 518 N.E.2d 851, 401 Mass. 648.

16. Actions

Action of contract against city was correct method by which to test validity of party's claim that he was entitled to a pension from city as a retired veteran. *Weiner v. City of Boston* (1961) 172 N.E.2d 96, 342 Mass. 67.

In determining whether plaintiff was entitled to payment under retirement system, court may adjudicate whether he has status of veteran and is not bound by prior ruling of retirement board concerning such status. *Weiner v. City of Boston* (1960) 19 Mass.App.Dec. 171.

17. Declaratory relief

Veteran would not be required irrevocably to seek and obtain retirement before ascertaining by litigation what his pension would be and thus exercise of discretion to afford declaratory relief was appropriate. *LaCouture v. Retirement Bd. of Quincy* (1981) 419 N.E.2d 1052, 11 Mass.App. 738.

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Any such veteran who was employed in the service of the commonwealth or any county, city, town or district thereof and who was a member of a reserve component of the armed forces which was called to active duty by order of the president of the United States shall have credited to him as creditable service the period of such active duty performed between October first, nineteen hundred and sixty-one and the termination of the Selective Service Act of 1948, provided that upon the termination of such active duty or his discharge or release therefrom he was reinstated or reemployed within two years in his former position or a similar position.

Added by St.1945, c. 671. Amended by St.1954, c. 627, § 13; St.1959, c. 576, § 1B; St.1960, c. 619, § 3; St.1962, c. 544, § 3; St.1962, c. 604; St.1964, c. 580, § 3; St.1965, c. 498, § 4; St.1965, c. 726, § 3; St.1966, c. 671, § 3; St.1971, c. 682, § 1; St.1971, c. 727, § 1; St.1973, c. 207, § 4; St.1978, c. 393, § 14.

Historical Note

St.1945, c. 671, was approved July 23, 1945.

St.1954, c. 627, § 13, an emergency act, approved June 10, 1954, rewrote this section, which prior thereto read:

"A veteran eligible to retirement under section fifty-six, fifty-seven or fifty-eight of this chapter who was employed in the service of the commonwealth or any county, city, town or district thereof, prior to his entrance into the military or naval service of the United States and upon whose discharge or release therefrom was reinstated or reemployed in his former position or a similar position shall have credited to him, as creditable service, the period of his said military or naval service."

St.1959, c. 576, § 1B, an emergency act, approved Sept. 14, 1959, and by § 2 made effective as of July 1, 1959, substituted "sixty" for "fifty-five".

St.1960, c. 619, § 3, an emergency act, approved Aug. 30, 1960, and by § 4 made effective as of July 1, 1960, substituted "sixty-two" for "sixty".

St.1962, c. 544, § 3, approved June 7, 1962, and by § 4 made effective July 1, 1962, substituted "sixty-four" for "sixty-two".

St.1962, c. 604, approved June 29, 1962, added the second paragraph.

St.1964, c. 580, § 3, approved June 22, 1964, and by § 4 made effective July 1, 1964, at the end of the first paragraph substituted "sixty-six; provided, however, that such service shall not be construed to include service for more than four years unless such further period of service in excess of four years was involuntary service required by the government of the United States" for "sixty-four".

St.1965, c. 498, § 4, approved May 24, 1965, inserted "or any housing authority" in the first paragraph.

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2].

St.1965, c. 680, § 2, an emergency act, was approved Sept. 7, 1965 and by § 3 made effective as of Aug. 22, 1965.

St.1965, c. 726, § 3, approved Oct. 11, 1965, and by § 4 made effective as of July 1, 1964, in the first paragraph added "or unless such service in excess of four years was rendered prior to July first, nineteen hundred and sixty-four".

St.1966, c. 671, § 3, an emergency act, approved Sept. 5, 1966, and by § 4 made effective as of June 30, 1966, deleted "or any housing authority" following "district", substituted "the termination of the Selective Service Act of 1948" for "July first, nineteen hundred and sixty-six" and added "and such veteran was reinstated or reemployed on or before June thirtieth, nineteen hundred and sixty-six".

St.1971, c. 682, § 1, approved Aug. 19, 1971, inserted "or when employed in any governmental unit in a position which is subject to the provisions of sections one to twenty-eight, inclusive", in the first paragraph.

Section 2 of St.1971, c. 682, provides:

"The provisions of section fifty-eight A of chapter thirty-two of the General Laws, as amended by section one of this act, shall apply to any member of a retirement system who had been a member of a retirement system established under the provisions of said chapter thirty-two, prior to entering military service and who on the termination of such military service had within two years after such termi-

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nation become a member of the retirement system of a governmental unit other than that by which he was employed prior to such military service."

St.1971, c. 727, § 1, approved Aug. 31, 1971, and by § 2 made effective as of June 30, 1966, inserted "or any housing authority" in the first paragraph.

Law Review Commentaries

Recent developments in labor law field in Massachusetts. Robert M. Segal (Sept. 1962) 6 Boston Bar J. No. 8, p. 5.

Library References

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C.J.S. Municipal Corporations §§ 588, 589, 614, 615, 727.
C.J.S. Officers and Public Employees §§ 99, 219, 222, 227.
C.J.S. Pensions and Retirement Plans and Benefits § 2.
C.J.S. Schools and School Districts §§ 118, 149, 150, 231 to 236.
C.J.S. States §§ 104 to 115.
C.J.S. Towns §§ 20, 23 to 27.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

In general 1
Conscientious objectors 2

1. In general

Under Veterans' Retirement Act, three kinds of service are creditable for purposes of length of service requirement: remunerative service in employ of governmental units under §§ 56, 57 and 58 of this chapter; service as reserve police officer or call fire fighter under § 57B of this chapter; and under this section, military service if veteran, on discharge, is reemployed in public sector within two years. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

As a result of the enactment of St.1965, c. 726, amending St.1941, c. 708, as amended by St.1964, c. 580, concerning eligibility of veterans for retirement benefits under the 1941 act, all service rendered prior to July 1, 1964, whether voluntary or involuntary, may be counted for purposes of reinstatement and retirement; involuntary service may still be counted even after July 1, 1964, assuming that the serviceman in question had accumulated no more than four years of voluntary service

St.1973, c. 207, § 4, approved April 20, 1973, inserted "or any redevelopment authority" in the first paragraph.

St.1978, c. 393, § 14, approved July 12, 1978, and by § 45 made effective January 1, 1979, substituted "one" for "twenty-one" preceding "of chapter thirty-one," in the first paragraph.

2. Conscientious objectors

Section 7 of chapter 4 which by denial of veterans' status to conscientious objector precluded him from eligibility for large number of veterans' benefits was in direct conflict with

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federal statutory scheme which now places no sanctions on person in service becoming conscientious objector during course of tour of active duty, and said statute was accordingly invalid. *Reynolds v. Dukakis* (D.C.1977) 441 F.Supp. 646.

Federal policy now protects rights of servicemen on active duty to free exercise of religion without any attendant loss of status or any loss of veterans' benefits, and state therefore can-

not constitutionally continue to withhold veterans' benefits from such persons who avail themselves of federally provided opportunity to exercise religious beliefs. *Id.*

Where a state employee, after over three years of military service, was dishonorably discharged, and upon re-enlistment was honorably discharged, such three years is creditable service within c. 32, §§ 58, 58A. *Op. Atty. Gen.* May 27, 1957, p. 83.

§ 58B. Election of option for benefit of surviving spouse or other beneficiary of veteran

A veteran who is entitled to be retired under the provisions of section fifty-eight may, on or before the date of his written application for retirement, elect to receive a lesser yearly amount of pension payable to such veteran during his lifetime, with the provisions that upon his death leaving as a survivor his spouse or other eligible beneficiary, as hereinafter defined, at the time of his retirement two-thirds of the yearly amount of such lesser pension shall be continued during the lifetime of and paid to such spouse or other eligible beneficiary; provided, however, that the surviving spouse or other eligible beneficiary shall receive not less than two-thirds of the pension such veteran is receiving at the time of his death; and provided, further, that if such surviving spouse or other eligible beneficiary dies on or after the date such lesser pension becomes effective and before the death of such veteran, such veteran thereafter shall be paid a full pension and may not choose another option. Such full pension shall be determined by multiplying the amount of the lesser pension at the time of the death of such surviving spouse or other eligible beneficiary by a fraction the numerator of which is the yearly amount of the full pension which such veteran would have received under section fifty-eight at the time his retirement allowance became effective if he had not elected that it be paid in accordance with the terms of the first sentence of this section, and the denominator of which is the yearly amount of the lesser pension which such veteran received at the time his pension first became effective.

The election of this option shall be filed with the retiring authority in writing on a prescribed form on or before the date of the written application for the retirement of such veteran, and if the spouse or other eligible beneficiary dies before the date such retirement becomes effective this option shall not take effect. The yearly amount of such lesser pension shall be determined so that the value, on the date such pension becomes effective, of the prospective payments to such veteran, including those for a full pension made in accordance with the first paragraph of this section, and to such spouse or other eligible beneficiary shall be the actuarial equivalent of the value on such date of the full pension that such veteran would be entitled to under the provisions of section fifty-eight.

The computation of the actuarial equivalent of the pension payable to a veteran and to his spouse or other eligible beneficiary under the provisions of

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this section shall be subject to the supervision and verification by the actuary appointed by the commissioner of public employee retirement in accordance with the provisions of section twenty-one and the expenses for such service shall be paid by the governmental unit granting the pension.

If a veteran entitled to be retired under the provisions of section fifty-eight dies before making written application for such retirement, or, having exercised the option provided by this section, dies before the effective date of his retirement, his widow shall receive an annual allowance consisting of two-thirds of the actuarial equivalent to which said veteran would have been entitled had his retirement allowance been computed under the provisions of this section as of the date of death of said veteran, and payable from the same source; provided that said spouse and the deceased veteran were living together at the time of his death, or that the retiring authority finds that they had been living apart for justifiable cause other than desertion or moral turpitude on the part of the spouse.

Any allowance provided for under this section shall be in the alternative to any allowance provided for under section twelve. If the deceased veteran was a member of a system established under sections one to twenty-eight, inclusive, the provisions of paragraph (c) of subdivision (2) of section eleven and Option (d) of subdivision (2) of section twelve shall apply unless the appropriate retiring authority, as defined in section fifty-nine, is notified in writing of the election of the pension under this section within ninety days from the date that the board mailed notice regarding the right of such election; provided, that no pension shall be paid under this section if the deceased veteran is survived by a beneficiary appointed under Option (d) of subdivision (2) of section twelve other than his spouse.

An eligible beneficiary, other than the veteran's spouse, shall, for the purposes of this section, be a child or children under age eighteen, father, mother, sister or brother of such veteran. If a spouse receiving an allowance as beneficiary under this section dies leaving any children of such veteran and of such spouse who are under age eighteen, such amount as would have been paid to such spouse shall be divided into such number of equal shares as there are such children, and each such share shall be paid to a guardian for the benefit of each such child until the child reaches age eighteen.

Added by St.1956, c. 541. Amended by St.1957, c. 113, § 1; St.1957, c. 413, § 1; St.1957, c. 708, § 1; St.1958, c. 669, §§ 1, 2; St.1968, c. 600, § 4; St.1970, c. 697, §§ 1, 2; St.1982, c. 630, § 41; St.1987, c. 697, § 99.

Historical Note

St.1956, c. 541, was approved July 23, 1956.

St.1957, c. 113, § 1, an emergency act, approved Feb. 26, 1957, and by § 2 made effective as of the effective date of St.1956, c. 541, in the first sentence of the first paragraph inserted "upon his death leaving as a survivor his spouse at the time of his retirement".

St.1957, c. 413, approved June 4, 1957, added the third paragraph.

St.1957, c. 708, § 1, an emergency act, approved Sept. 9, 1957, added the fourth paragraph.

Section 2 of St.1957, c. 708, provides:

"The provisions of said section fifty-eight of said chapter thirty-two of the General Laws added by said chapter four hundred and thirteen of the acts of nineteen hundred and fifty-seven and by section one of this act shall take effect as if they had been enacted on the first day of January, nineteen hundred and fifty-eight."

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effect as of June fourth, nineteen hundred and fifty-seven."

St.1958, c. 669, § 1, approved Oct. 21, 1958, and by § 4 made effective as of June 4, 1957, in the third paragraph, added "; provided that said widow and the deceased veteran were living together at the time of his death, or that the retiring authority finds that they had been living apart for justifiable cause other than desertion or moral turpitude on the part of the widow".

Section 2 of St.1958, c. 669, added the second sentence to the fourth paragraph.

St.1968, c. 600, § 4, approved July 15, 1968, added "; provided, however, that the surviving spouse shall receive not less than two thirds of the pension such veteran is receiving at the time of his death".

St.1970, c. 697, § 1, in the first paragraph inserted "or other eligible beneficiary, as hereinafter defined," in the first sentence and "or other eligible beneficiary" in four places in the first paragraph and in the second paragraph.

Section 2 of St.1970, c. 697, added the fifth paragraph.

St.1970, c. 697, was approved Aug. 18, 1970. Emergency declaration by the Governor was filed Aug. 28, 1970.

St.1982, c. 630, § 41, an emergency act, approved Jan. 4, 1983, and by § 56 made effective upon passage, substituted "commissioner of public employee retirement" for "commissioner of insurance" in the second paragraph.

St.1987, c. 697, § 99, an emergency act, approved Jan. 12, 1988, and by § 135 made applicable only to benefits receivable pursuant to applications for such benefits, allowances or other payments made on or after the effective

date of this act, rewrote the first paragraph which prior thereto read:

"A veteran who is entitled to be retired under the provisions of section fifty-eight may, on or before the date of his written application for retirement, elect to receive a lesser yearly amount of pension payable to such veteran during his lifetime, with the provisions that upon his death leaving as a survivor his spouse or other eligible beneficiary, as hereinafter defined, at the time of his retirement two thirds of the yearly amount of such lesser pension shall be continued during the lifetime of and paid to such spouse or other eligible beneficiary; provided, however, that the surviving spouse or other eligible beneficiary shall receive not less than two thirds of the pension such veteran is receiving at the time of his death. The election of this option shall be filed with the retiring authority in writing on a prescribed form on or before the date of the written application for the retirement of such veteran, and if the spouse or other eligible beneficiary dies before the date such retirement becomes effective this option shall not take effect. The yearly amount of such lesser pension shall be determined so that the value, on the date of retirement, of the prospective payments to such veteran and to such spouse or other eligible beneficiary shall be the actuarial equivalent of the value on such date of the full pension that such veteran would be entitled to under the provisions of said section fifty-eight.";

inserted the second paragraph; in the fourth paragraph twice substituted "spouse" for "widow"; and in the fifth paragraph, in the second sentence substituted "from the date that the board mailed notice regarding the right of such election" for "of the date of death of the veteran".

Library References

Counties ⇨69(3).
Municipal Corporations ⇨187(3), 200(3), 220(9).
Officers and Public Employees ⇨94.
Pensions ⇨2.
Schools ⇨63(5), 146.
States ⇨64.1(1).
Towns ⇨9.
WESTLAW Topic Nos. 104, 268, 283, 345, 360, 381.
C.J.S. Counties § 130.

C.J.S. Municipal Corporations §§ 588, 589, 614, 615, 727.
C.J.S. Officers and Public Employees §§ 99, 219, 222, 227.
C.J.S. Pensions and Retirement Plans and Benefits § 2.
C.J.S. Schools and School Districts §§ 118, 149, 150, 231 to 236.
C.J.S. States §§ 104 to 115.
C.J.S. Towns §§ 20, 23 to 27.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

32 § 58B

CIVIL SERVICE

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1. In general

Where a veteran was entitled to retire but dies before applying for retirement and before accepting the option under this section, his widow is entitled to an adjustment of the allowance paid her in accordance with section 58 of this chapter as amended in 1968. *Op. Atty.Gen.*, Oct. 18, 1968, p. 52.

Where a veteran elected to accept the option under this section and retired before his death his widow is entitled to an adjustment of the allowance paid her in accordance with section 58 of this chapter as amended in 1968. *Id.*

Widow of a judge who was a veteran, and who died before enactment of § 65C of this chapter, making retirement benefits available to judge's widow, could claim benefits under this section. *Op. Atty.Gen.* Feb. 7, 1961 p. 94.

2. Annuities

Under § 95A of this chapter providing that annuities may be paid to beneficiaries of any official or employee who was retired under the provisions of any noncontributory retirement law and who had no right under "any such law" to elect that benefits thereunder be paid to a survivor, widow of employee was entitled to annuity where employee had retired under § 85E of this chapter governing retirement of

policemen and firemen which contained no provision for election of benefits for a surviving spouse, though employee was also entitled to retire under § 58 of this chapter and this section, which prescribe alternative compensation plans, including provision for payment of annuities to certain survivors of retired veterans. *Devaney v. Town of Watertown* (1982) 430 N.E.2d 1237, 13 Mass.App. 927.

3. Creditable service

Sheriff's unpaid service as a school committee member could not be included with his paid service as a sheriff in determining whether sheriff had sufficient service to entitle sheriff's widow to a pension from a noncontributory retirement system. *Sullivan v. Boston Retirement Bd.* (1971) 268 N.E.2d 678, 359 Mass. 228.

4. Waiver of rights

Where city employee was required to join contributory pension system by certain date or risk loss of all future benefits for himself and his widow by relying solely on his pending appeal from denial of his request for retirement as veteran and, in applying for membership in contributory system, he expressly reserved his rights to pension as veteran, employee and his widow did not waive such rights by accepting benefits under contributory retirement system. *Bianchi v. Retirement Bd. of Somerville* (1971) 270 N.E.2d 792, 359 Mass. 642.

§ 58C. Retirement allowances of policemen and firemen

In any city, town or district, which accepts this section, if any veteran who retires under section fifty-eight is a member of the police department or a permanent member of the fire department of such city, town or district, respectively, he shall, in lieu of the retirement allowance provided in said section fifty-eight, receive a retirement allowance, if he retires before attaining age sixty, equal to seventy per cent, before attaining age sixty-one, equal to seventy-one per cent, or after attaining age sixty-one equal to seventy-two per cent, of the highest annual rate of compensation, including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and including any maintenance allowance, payable to him while he was holding the grade held by him at his retirement, and payable from the same source.

Added by St.1967, c. 400, § 1. Amended by St.1968, c. 98, § 1.

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Historical Note

St.1967, c. 400, § 1, was approved June 26, 1967.

Section 2 of St.1967, c. 400, provides:

"In any city which accepts section fifty-eight C of chapter thirty-two of the General Laws, inserted by section one of this act, if any veteran who was retired under the provisions of section fifty-eight of said chapter thirty-two, was at the time of his retirement a member of the police department or a permanent member of the fire department prior to the date of such acceptance, shall have his retirement allowance adjusted so as to conform, from and after the date of such acceptance, to the provisions of said section fifty-eight C."

St.1968, c. 98, § 1, approved March 28, 1968, inserted "town or district," and "of such city, town or district, respectively".

Section 2 of St.1968, c. 98, provides:

"In any town or district which accepts section fifty-eight C of chapter thirty-two of the General Laws, as amended by section one of this act, if any veteran who was retired under the provisions of section fifty-eight of said chapter thirty-two was at the time of his retirement a member of the police department of such town or a permanent member of the fire department of such town or district prior to the date of such acceptance, he shall have his retirement allowance adjusted so as to conform, from and after the date of such acceptance, to the provisions of said section fifty-eight C."

Library References

Municipal Corporations 187(7), 200(7).
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations §§ 588, 589, 614, 615.

Notes of Decisions

Acceptance of act 1

1. Acceptance of act

Failure to include requirement of acceptance of Veterans' Retirement Act by governmental unit from which reimbursement was sought was significant in § 59A of this chapter govern-

ing reimbursement by governmental unit paying pension under Act inasmuch as Legislature made this section and §§ 57B and 58D of this chapter subject to acceptance and did so explicitly, and legislative history indicated that prior proposals which made reimbursement subject to acceptance of Act by reimbursing unit had been rejected. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

§ 58D. Retirement allowances of employees other than policemen and firemen

In any city or town which accepts this section, if any city or town employee, other than a member of the police department or a permanent member of the fire department, who is a veteran, retires under section fifty-eight, he shall, in lieu of the retirement allowance provided in said section fifty-eight, receive a retirement allowance, if he retires before attaining age sixty, equal to seventy per cent, after attaining age sixty and before attaining age sixty-one, equal to seventy-one per cent, or after attaining age sixty-one, equal to seventy-two per cent, of the highest annual rate of compensation, including any bonuses paid in lieu of additional salary or as a temporary wage increase in addition to his regular compensation, and including any maintenance allowance, payable to him while he was holding the grade held by him at his retirement, and payable from the same source.

Added by St.1968, c. 338, § 1.

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Historical Note

St.1968, c. 338, § 1 was approved May 24, 1968.

Section 2 of St.1968, c. 338, provides:

"In any city or town which accepts section fifty-eight D of chapter thirty-two of the General Laws, inserted by section one of this act, any person who had been retired as a veteran under the provisions of section fifty-eight of said chapter thirty-two prior to the date of such

acceptance and who at the time of his retirement was an employee of such city or town, other than a member of the police department or a permanent member of the fire department prior to the date of such acceptance, shall have his retirement allowance adjusted so as to conform, from and after the date of such acceptance, to the provisions of said section fifty-eight D."

Library References

Municipal Corporations ¶220(9).

WESTLAW Topic No. 268.

C.J.S. Municipal Corporations § 727.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Acceptance of act 1

1. Acceptance of act

Failure to include requirement of acceptance of Veterans' Retirement Act by governmental unit from which reimbursement was sought was significant in § 59A of this chapter govern-

ing reimbursement by governmental unit paying pension under Act inasmuch as Legislature made this section and §§ 57B and 58C of this chapter subject to acceptance and did so explicitly, and legislative history indicated that prior proposals which made reimbursement subject to acceptance of Act by reimbursing unit had been rejected. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

§ 59. "Retiring authority" defined

The words "retiring authority", as used in sections fifty-six to sixty, inclusive, shall mean as to the commonwealth, the state board of retirement; as to a county, city, town, district or regional school district, the appropriate retirement board established under section twenty, having jurisdiction in the governmental unit in which a veteran was employed at the time of his retirement or death, or, if there is no such board in the case of a town, the selectmen; or, in the case of a district, the prudential committee; or, in the case of a regional school district, the regional district school committee; or, in the case of a housing authority, the housing authority; or in the case of any redevelopment authority, the redevelopment authority.

Amended by St.1960, c. 728, § 4; St.1963, c. 511, § 1; St.1965, c. 498, § 4A; St.1965, c. 680, § 1; St.1973, c. 207, § 5.

Historical Note

St.1920, c. 574, § 5.

St.1931, c. 426, § 141.

St.1960, c. 728, § 4, approved Oct. 27, 1960, and by § 18 made effective July 1, 1961, rewrote the section, which prior thereto read:

"The words 'retiring authority', as used in sections fifty-six to sixty, inclusive, shall mean as to the commonwealth, the governor; as to a

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county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to any district under the jurisdiction of the metropolitan district commission, said commission; and as to all other districts, the governing boards thereof."

St.1963, c. 511, § 1, approved June 28, 1963, inserted "or regional school district" and added "; or, in the case of a regional school district, the regional district school committee".

St.1965, c. 498, § 4A, approved May 24, 1965, added "; or, in the case of a housing authority, the housing authority". [Added by St.1965, c. 680, § 1.]

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General Laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2].

St.1965, c. 680, an emergency act, was approved Sept. 7, 1965, and by § 3 made effective as of Aug. 22, 1965.

St.1973, c. 207, § 5, approved April 20, 1973, added "or in the case of any redevelopment authority, the redevelopment authority".

Library References

Counties ⇨69(3).
Municipal Corporations ⇨187(3), 200(3), 220(9).
Officers and Public Employees ⇨94.
Pensions ⇨2.
Schools ⇨63(5).
States ⇨64.1(1).
Towns ⇨9.
WESTLAW Topic Nos. 104, 268, 283, 296, 345, 360, 381.
C.J.S. Counties § 130.

C.J.S. Municipal Corporations §§ 588, 589, 614, 615, 727.
C.J.S. Officers and Public Employees §§ 99, 219, 222, 227.
C.J.S. Pensions and Retirement Plans and Benefits § 2.
C.J.S. Schools and School Districts §§ 118, 149, 150.
C.J.S. States §§ 104 to 115.
C.J.S. Towns §§ 20, 23 to 27.

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Port authority 2

1. Date of retirement

Once the retiring authority exercises his power as the retiring authority, such person has no further power thereafter to change the effective date of the retirement. Op.Atty.Gen. July 21, 1941, p. 105.

A member of the teachers retirement association reaching 70 years of age after school began in 1940 is required to be retired not later than July 1, of 1941, and if the retiring authority is not available to retire the person on that date, the person acting in his place may make the retirement. Op.Atty.Gen. July 9, 1941, p. 101.

Port authority

Under §§ 56 to 60 of this chapter, governing civil service retirements and pensions, port authority was required to assume pension and retirement allowances due its former employees who were veterans based upon their credit-

able service for authority's predecessor which was not a member of state retirement system. Massachusetts Port Authority v. Treasurer and Receiver General (1967) 227 N.E.2d 902, 352 Mass. 755.

Payment by port authority of pension and retirement allowances based upon its former employees' creditable service for authority's predecessor would not constitute an unconstitutional impairment of security behind authority's revenue bonds, or a deprivation without due process of law of property either of authority as a public instrumentality or of its bondholders. Id.

Under St.1956, c. 465, § 22, as amended by St.1958, c. 599, § 10, governing civil service retirements and pensions, port authority which had employed employees of its predecessor after it had taken control of port properties in 1959 was liable for death benefits and disability allowances directly attributable to employment with authority after 1959, and no part of burden of such payments could be apportioned to the state. Id.

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CIVIL SERVICE

§ 59A. Part of service in governmental unit other than retiring unit; reimbursement

If a retired veteran or the widow of a veteran receives a pension from the commonwealth or from a political subdivision thereof under the provisions of section fifty-six, fifty-seven, fifty-eight or fifty-eight B, and if a portion of such pension or widow's allowance is based on the creditable service of such veteran in a governmental unit other than the unit which pays such pension or allowance, the governmental unit making such payment shall be reimbursed in full by such other governmental unit for such portion of the pension or allowance as shall be computed by the actuary in the division of public employee retirement administration. The treasurer of the governmental unit paying such pension or allowance shall annually, on or before January fifteenth, upon certification of the retiring authority of such governmental unit, notify the treasurer of such other governmental unit of the amount of reimbursement due therefrom for the previous calendar year, and the treasurer of such other governmental unit shall forthwith take such steps as may be necessary to insure prompt payment of such amount. All such payments from the other governmental unit shall be charged to such funds as shall be appropriated for payment of pensions and allowances under section fifty-six, fifty-seven, fifty-eight or fifty-eight B, and when received they shall be credited to and added without further appropriation to such similar appropriation as shall have been made for the payment of similar pensions and allowances in the paying governmental unit. In default of any such payment, the paying governmental unit may maintain an action of contract to recover the same.

Added by St.1968, c. 601, § 1. Amended by St.1982, c. 630, § 42.

Historical Note

St.1968, c. 601, § 1, was approved July 15, 1968.

Section 2 of St.1968, c. 601, provides:

"This act shall take effect as of July first, nineteen hundred and sixty-eight, and shall apply to all pensions or survivor's allowance payments made under section fifty-six, fifty-

seven, fifty-eight or fifty-eight B of chapter thirty-two of the General Laws on and after said date."

St.1982, c. 630, § 42, an emergency act, approved Jan. 4, 1983, and by § 56 made effective upon passage, substituted "public employee retirement administration" for "insurance" in the first sentence.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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under this section unless pension on which claim for reimbursement rests is paid to claimant eligible under the Act. Town of Lexington v. Town of Bedford (1979) 393 N.E.2d 321, 376 Mass. 562.

1. In general

Governmental unit has no obligation to reimburse other unit for portion of pension paid

Provision of this section that all reimbursement payments from other governmental unit shall be charged to such funds as shall be

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appropriated for payment of pensions and certain allowances required and authorized specific appropriation by governmental unit to satisfy obligations to reimburse either governmental units for pensions paid under Act. Id.

2. Acceptance of act

Provision of this section that governmental unit paying pension under Act may maintain action of contract against other governmental unit to recover reimbursement was mere indication that unit seeking payment would have remedial rights and duties associated with action of contract; such provision was unexpressive as to whether obligation to reimburse was subject to acceptance of Act by unit from which reimbursement was sought. Town of Lexington v. Town of Bedford (1979) 393 N.E.2d 321, 378 Mass. 562.

Failure to include requirement of acceptance of Veterans' Retirement Act by governmental unit from which reimbursement was sought was significant in this section governing reimbursement by governmental unit paying pension under Act inasmuch as Legislature made §§ 57B, 58C and 58D of this chapter subject to acceptance and did so explicitly, and legislative history indicated that prior proposals which made reimbursement subject to acceptance of Act by reimbursing unit had been rejected. Id.

Under the provisions of St.1968, c. 601, enacted as this section where a portion of a veteran's pension is based on creditable service in a governmental unit other than the paying unit, the other unit is obligated to reimburse the paying unit for such portion, notwithstanding that the other unit has not accepted the provisions of sections 56 to 59, of this chapter, the Veterans' Retirement Act; and the other unit is required to make an annual appropriation to satisfy such obligation. Op.Atty.Gen., Oct. 27, 1969, p. 61.

3. Interest

Where neither computation of interest nor sufficiency of notice of demand for reimbursement of pension for purposes of accrual of interest was presented to trial court in action by first town against second town seeking reimbursement for portion of pension paid by first town under Veterans' Retirement Act neither computation nor notice issue would be considered on appeal. Town of Lexington v. Town of Bedford (1979) 393 N.E.2d 321, 378 Mass. 562.

Letters of notice sent by secretary of town board of retirement seeking reimbursement for portion of pension paid under Veterans' Retirement Act was sufficient demand to second town under c. 231, § 6C governing award of interest in that letters informed second town of basis and extent of its obligation as well as fact that performance was then due. Id.

Issue of whether notice demanding reimbursement from second town of portion of pension paid by first town of Veterans' Retirement Act was sufficient to begin accrual of interest was distinct from issue of whether notice was sufficient to entitle first town to reimbursement. Id.

4. Questions of law

In action by first town against second town for reimbursement of portion of pension paid under Veterans' Retirement Act, issue of whether factors actually considered by actuary in determining second town's reimbursement obligation were appropriate or inadequate presented only question of law. Town of Lexington v. Town of Bedford (1979) 393 N.E.2d 321, 378 Mass. 562.

In action by first town against second town seeking reimbursement of portion of pension paid to town employee under Veterans' Retirement Act, question of whether deficiencies in notice to second town defeated claim by first town presented question of law. Id.

§ 60. Acceptance of sections 56 to 59; minimum period of creditable service

Sections fifty-six to fifty-nine, inclusive, shall, notwithstanding the provisions of any general or special law relating to retirement allowances, be in effect in any county, city, town or district which accepted them or accepted corresponding provisions of law prior to January first, nineteen hundred and forty-six, by the retiring authority.

No veteran whose employment first begins after June thirtieth, nineteen hundred and thirty-nine, shall be subject to the provisions of sections fifty-six to fifty-nine, inclusive; nor shall any veteran whose employment first began on or before said June thirtieth be subject to said provisions unless at the time of his retirement the total period of his creditable service is at least equal to

twice the time he was not in the employ of the commonwealth or of a county, city, town, district, housing authority or redevelopment authority subsequent to the date when his employment by the commonwealth or by a county, city, town, district, housing authority or redevelopment authority first began. Amended by St.1934, c. 285, § 2; St.1937, c. 102, § 2; St.1938, c. 452, § 1; St.1945, c. 483, § 2; St.1945, c. 678; St.1954, c. 627, § 14; St.1954, Ex.Sess., c. 688, § 3; St.1965, c. 498, § 6; St.1973, c. 207, § 7.

Historical Note

St.1920, c. 574, §§ 6, 7.

St.1934, c. 285, § 2, approved June 12, 1934, added the second paragraph.

St.1937, c. 102, § 2, approved March 12, 1937, substituted "June thirtieth" for "December thirty-first" in the second paragraph.

St.1938, c. 452, § 1, an emergency act, approved June 30, 1937, and by § 2 made applicable to all veterans whose employment first began after June 30, 1937, substituted "thirty-nine" for "thirty-seven" in the second paragraph.

St.1945, c. 483, § 2, approved June 26, 1945, rewrote the section, which prior thereto read:

"Sections fifty-six to fifty-nine, inclusive, shall not take effect in any county, city, town or district until accepted by the retiring authority of the particular county, city, town or district, nor shall they apply to veterans who are members of the police department of Boston.

"No veteran whose employment first begins after June thirtieth, nineteen hundred and thirty-nine, shall be subject to the provisions of sections fifty-six to fifty-nine, inclusive."

St.1945, c. 678, approved July 23, 1945, rewrote this section, which prior thereto read:

"Sections fifty-six to fifty-nine, inclusive, shall not take effect in any county, city, town or district unless accepted prior to January first, nineteen hundred and forty-six by the retiring authority of the particular county, city, town or district, nor shall they apply to veterans who are members of the police department of Boston. No veteran whose employment first begins after June thirtieth, nineteen hundred and thirty-nine, shall be subject to the provisions of sections fifty-six to fifty-nine, inclusive."

St.1954, c. 627, § 14, an emergency act, approved June 10, 1954, rewrote this section, which prior thereto read:

"Sections fifty-six to fifty-nine, inclusive, shall, notwithstanding the provisions of any general or special law relating to retirement allowances, take effect in any county, city, town or district upon their acceptance prior to January first, nineteen hundred and forty-six,

by the retiring authority of the particular county, city, town or district.

"No veteran whose employment first begins after June thirtieth, nineteen hundred and thirty-nine, shall be subject to the provisions of sections fifty-six to fifty-nine, inclusive."

St.1954, Ex.Sess., c. 688, § 3, an emergency act, approved Sept. 8, 1954, rewrote this section, which prior thereto read:

"Sections fifty-six to fifty-nine, inclusive, shall be in effect in any county, city, town or district which accepted them or accepted corresponding provisions of law prior to January first, nineteen hundred and forty-six, by the retiring authority. No veteran whose employment first began after June thirtieth, nineteen hundred and thirty-nine, shall be subject to the provisions of sections fifty-six to fifty-nine, inclusive.

"Any person whose employment first began prior to January first, nineteen hundred and forty-six, but who left the service of the commonwealth or of any of its political subdivisions for more than two consecutive years, shall not, on account of such service prior to said two-year period, be subject to the provisions of sections fifty-six to fifty-nine, inclusive."

Section 5 of St.1954, Ex.Sess., c. 688, provides:

"The word 'period', as used in this section is hereby defined to mean the period commencing at the time when chapter six hundred and twenty-seven of the acts of the current year was approved by the governor and ending at the time when said chapter six hundred and twenty-seven would have taken effect if said chapter had not been declared to be an emergency law. Every person retired before the commencement of said period effective at a time within said period, and every person retired during said period effective either at a time within said period or at a time occurring before October first in the current year, shall be deemed to have been lawfully and validly retired if he was retired in accordance with the provisions of chapter thirty-two of the General

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Laws as if chapter six hundred and twenty-seven of the acts of the current year had not been passed and his retirement may be held invalid solely because of said chapter six hundred and twenty-seven. Every person placed during said period on an eligible list under the civil service laws and rules shall be deemed to have been lawfully and validly placed thereon if he was placed thereon in accordance with said laws and rules as if said chapter six hundred and twenty-seven had not been passed and his placement thereon may be held invalid solely because of said chapter six hundred and twenty-seven."

St.1965, c. 498, § 6, approved May 24, 1965, in the second paragraph substituted ", district or housing authority" for "or district".

Section 5 of St.1965, c. 498, provides:

"Notwithstanding the limitation contained in the first paragraph of section sixty of chapter thirty-two of the General Laws, sections fifty-six to fifty-nine, inclusive, of said chapter thirty-two, in so far as they relate to employees of housing authorities, shall be in effect in any city or town in which the housing authority accepts said sections prior to January first, nineteen hundred and sixty-seven." [Amended by St.1965, c. 680, § 2.]

St.1965, c. 680, § 2, an emergency act, was approved Sept. 7, 1965, was approved Sept. 7, 1965 and by § 3 made effective as of Aug. 22, 1965.

St.1973, c. 207, § 7, approved April 20, 1973, inserted "or redevelopment authority" twice where appearing in the second paragraph.

Code of Massachusetts Regulations

Public employee retirement administration, approval of retirement board decisions, notice to commissioner, see 840 CMR 9.02.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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- In general 1
- Creditable service 3
- Employment 2

In light of action taken by legislature, local housing authority could not legally accept provisions of veterans retirement law. *Op. Atty. Gen.*, Feb. 7, 1964, p. 176.

1. In general

Under Veterans' Retirement Act, veteran who entered governmental services before June 30, 1939 and remains in such service for certain number of years is eligible to receive pension from governmental unit from which he retires, at no cost to himself; however, such provisions are not mandatory for all governmental units in Commonwealth but are only in effect in any county, city, town or district which has accepted them. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Department of Commerce and Development lacked power to prohibit or prevent housing authority from meeting authority's obligation to pay full pension allowed by §§ 56 to 60 of this chapter, to retired employee of housing authority. *Flanagan v. Lowell Housing Authority* (1969) 248 N.E.2d 2, 356 Mass. 18.

The mayor's approval of a pension without referring to these sections (G.L. (Ter.Ed.) 1932, § 32, §§ 56 to 60), is not an implied acceptance of the sections. *Horrigan v. City of Pittsfield* (1936) 199 N.E. 382, 293 Mass. 17.

2. Employment

"Employment" in this section providing more favorable retirement benefits to veterans whose employment began before July 1, 1939, refers to rendering of services for pay whether or not on a regular and continuing basis. *Cardellicchio v. Board of Retirement of Natick* (1984) 463 N.E.2d 1174, 391 Mass. 760.

Service for which fireman was compensated in amount of 80 cents by town prior to July 1, 1939, eligibility deadline in § 60 of this chapter, constituted "employment" within meaning of such section; thus fireman, a military veteran, having met eligibility requirements of § 58 of this chapter, governing retirement after 30 years' service, was entitled to more favorable noncontributory retirement benefits. *Cardellicchio v. Board of Retirement of Natick* (1984) 463 N.E.2d 1174, 391 Mass. 760.

Public school teacher's service in the Massachusetts National Guard prior to July 1, 1939 did not qualify as "employment" within meaning of this section barring veterans from receiving noncontributory retirement benefits if their public employment began after June 30,

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Note 2

1939. *Habeeb v. Retirement Bd. of Quincy* (1983) 451 N.E.2d 704, 389 Mass. 634.

Plaintiff's service as a private in the Massachusetts National Guard prior to July 1, 1939, qualified as "employment" within meaning of this section, qualifying him for benefits; *St. 1963, c. 606* providing that persons employed by the National Guard as caretakers or air technicians prior to July 1, 1939, would not be excluded from coverage did not have any negative implication so as to exclude from benefits persons who were not caretakers or air technicians. *Habeeb v. Retirement Bd. of Quincy* (1982) 443 N.E.2d 411, 15 Mass.App. 902, affirmed 451 N.E.2d 704, 389 Mass. 634.

The 255 hours which petitioner, a school superintendent, spent in janitorial service in November and December of 1938 and January of 1939 while he was a student at Massachusetts State College, now the University of Massachusetts, constituted "employment" within meaning of this section. *Santucci v. Board of Selectmen of Palmer* (1976) 342 N.E.2d 722, 4 Mass.App. 785.

3. Creditable service

Under Veterans' Retirement Act, public service for remuneration in the Commonwealth is creditable for length of service requirement purposes, regardless of whether employer has

accepted the Act. *Town of Lexington v. Town of Bedford* (1979) 393 N.E.2d 321, 378 Mass. 562.

Under the provisions of *St. 1968, c. 601*, enacted as section 59A of this chapter, where a portion of a veteran's pension is based on creditable service in a governmental unit other than the paying unit, the other unit is obligated to reimburse the paying unit for such portion, notwithstanding that the other unit has not accepted the provisions of sections 56 to 59 of this chapter, the Veterans' Retirement Act; and the other unit is required to make an annual appropriation to satisfy such obligation. *Op. Atty.Gen., Oct. 27, 1969, p. 61.*

A person who served as one of the public trustees of the Boston elevated railway company, was in the employ of the commonwealth, and such service should be accepted as creditable service to meet the requirements of this section. *Op. Atty.Gen. Feb. 25, 1955, p. 80.*

In view of the numerous duties imposed on a special justice his entire service should be considered as creditable service under this section, rather than only those dates on which he actually sat as a special justice; a veteran serving in that capacity for a period in excess of ten years is entitled to retirement benefits under the state retirement law. *Op. Atty.Gen. Feb. 23, 1955, p. 78.*

§ 60A. Repealed by St. 1954, c. 627, § 15

Historical Note

St. 1954, c. 627, § 15, an emergency act, was approved June 10, 1954.

The repealed section, relating to retirement rights of certain army nurses who served in the Spanish War, the Philippine insurrection or the World War was derived from:

St. 1930, c. 161.

St. 1934, c. 285, § 3.

St. 1937, c. 102, § 3.

St. 1945, c. 483, § 3.

The caption preceding this section and reading, "Army Nurses" was repealed by *St. 1954, c. 627, § 15.*

See § 57 of this chapter.

PENSIONS FOR JUSTICES AND COURT OFFICERS

§§ 61 to 65. Repealed by St. 1937, c. 409, § 2

Historical Note

St. 1937, c. 409, § 2, was approved May 29, 1937.

Section 7 of *St. 1937, c. 409*, provides:

"This act shall take effect on September first of the current year; but nothing contained therein shall affect any pension or retirement allowance granted prior to such date."

The repealed sections, relating to pensions for justices and judges of the Supreme Court,

Superior Court, District Courts, Probate and Land Courts, and Municipal Court of Boston, were derived from:

St. 1885, c. 162.

St. 1887, c. 420.

St. 1899, c. 310, §§ 1, 2.

R.L. 1902, c. 158, §§ 10, 11.

St. 1906, c. 474, §§ 1, 2.

St. 1908, c. 179.

SUPPLEMENTAL MATERIAL

ARTHUR G. COFFEY

- Attachment I: Letter dated 11/29/90 from Judge Coffey
- Attachment II: BRA vote to accept Sections 56 through 60 of Chapter 32 of the General Laws:
- Attachment III: An Affidavit dated 11/28/90 by Arthur G. Coffey
- Attachment IV: An Affidavit dated 11/28/90 by John E. Driscoll
- Attachment V: A 4-page excerpt from the Roxbury Memorial Boys High School Year Book, Class of 1939.
- Attachment VI: Letter dated 11/15/89 from National Personnel Records Center to Arthur G. Coffey.
- Attachment VII: A 2-page letter dated 12/13/89 from Arthur G. Coffey to Thelma Martin at the National Personnel Records Center, attached to which is a 1-page transcript for Leo Dooley (3 pages in all).
- Attachment VIII: Letter dated 12/22/89 from National Records Center to Arthur G. Coffey.
- Attachment IX: City of Boston Personnel Record for Arthur G. Coffey (2 pages).
- Attachment X: Letter dated 4/18/80 from Arthur G. Coffey to State-Boston Retirement and Collector- Treasurer of the City of Boston.
- Attachment XI: Certificate of Service dated 2/20/86 for Arthur G. Coffey from Commonwealth of Massachusetts Military Archivist attached to which is copy of Discharge, Enlisted Record and Report of Separation (3 pages in all).
- Attachment XII: Veterans application for Retirement dated 4/18/80.
- Attachment XIII: Election of Option dated 4/18/80, attached to which is a Birth Certificate for Arthur G. Coffey; a Birth Certificate for Betty-Lou Banister and a marriage license for Arthur G. Coffey and Betty Lou Banister (6 pages in all).
- Attachment XIV: BRA Personnel Record of Arthur Coffey, 1/1/68 to 4/18/80.
- Attachment XV: Letter from Comm. John J. McGlynn of Commonwealth of Mass. Division of Public Employment Retirement Administration dated 1/24/91 verifying pension and survivorship allowance attached to which is Veterans Information Sheet (2 pages in all).
- Attachment XVI: Letter dated 1/18/91 from State-Boston Retirement System, attached to which are 3 pages of the deduction record for Arthur G. Coffey (4 pages in all).

SUPPLEMENTAL MATERIAL

ARTHUR G. COFFEY

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- Attachment II: BRA vote to accept Sections 56 through 60 of Chapter 32 of the General Laws:
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- Attachment XV: *Letter from Comm. John J. W. Glynn of Comm. J. Mar. Division of Public Employment*
Veterans Information Sheet *in also* *Retirement dated 1/21/91*
- Attachment XVI: Letter dated 1/18/91 from State-Boston Retirement System, attached to which are 3 *verifying* pages of the deduction record for Arthur G. Coffey (4 pages in all). *pension*
survivorship
allowances.
attached 17 other



THE COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
MIDDLESEX COUNTY DIVISION
PROBATE AND FAMILY COURT DEPARTMENT
EAST CAMBRIDGE 02141

ARTHUR G. COFFEY
JUSTICE

November 29, 1990

Boston Redevelopment Authority
1 City Hall Square
City Hall
Boston, Massachusetts 02201

Dear Board Members,

I was employed by the Boston Redevelopment Authority from January 1, 1968 until April 18, 1980 as Assistant General Counsel. On April 19, 1980, I was appointed Associate Justice in the Probate and Family Court Department of the Commonwealth of Massachusetts. At the time of my appointment I waived my retirement allowance from the Boston Redevelopment Authority/City of Boston until February 22, 1991 (when I will be 70 years old-mandatory retirement). At the time of my appointment as a judge I was not entitled to collect my pension from the Boston Redevelopment Authority/City of Boston as I was employed by the Commonwealth of Massachusetts.

Prior to my employment with the Boston Redevelopment Authority I had been in the service of the City of Boston first beginning on December 1, 1937 as a school aid under the National Youth Administration and ending as Director of Administration Services for City of Boston on January 1, 1968. My total service in the City of Boston and Boston Redevelopment Authority is thirty-one (31) years.

I now request that the Boston Redevelopment Authority approve my veteran's application for retirement under the provisions of General Laws, Chapter 32 Section 58, as of April 18, 1980, (the last day I was on active service at the Boston Redevelopment Authority).

Sincerely,

Arthur G. Coffey
Arthur G Coffey

AGC/amg

7

To: The Boston Redevelopment Authority.

From: Robert T. Kenney, Director

Subject: Acceptance by the Authority of the Benefits of Chapter 207 of the Acts of 1973 by an Act Further Defining the Retirement Rights of Certain Veterans Employed by Redevelopment Authorities

Date: August 9, 1973

On April 20, 1973, His Excellency, Governor Sargent, approved Chapter 207 of the Acts of 1973 which had been enacted by the current Legislature. This Act provides similar retirement benefits for veteran Redevelopment Authority employees as are now available to veteran employees in the service of the Commonwealth or any County, City, Town, District or Housing Authorities.

Sections 56 through 60, of Chapter 32 of the General Laws, has for many years provided retirement benefits for veteran employees who are in the State Retirement System prior to June 30, 1939. In 1965, Chapter 32 was further amended to include Housing Authorities in order to give Housing Authority veterans the same benefits available to veteran employees of Commonwealth Cities, Towns or Districts. Redevelopment Authorities were not included in the 1965 amendment. Chapter 207 of the Acts of 1973 includes veteran employees of all Redevelopment Authorities.

Section 6 of Chapter 207 of the Acts of 1973 stipulates that the said Act shall not be in effect until it is accepted by Redevelopment Authorities.

Accordingly, the acceptance of Chapter 207 of the Acts of 1973 by the Boston Redevelopment Authority is required before the benefits can be made available to qualified veteran employees.

The following vote is recommended for consideration by the Authority in accepting the benefits of Chapter 207 of the Acts of 1973:

VOTED: That Sections 56 to 60 inclusive of Chapter 32 of the General Laws as amended, be, and they hereby are, accepted as permitted by Chapter 207 of the Acts of 1973.

AFFIDAVIT

My name is Arthur G. Coffey. I reside at 77 Oriole Street, West Roxbury, Massachusetts 02132. I was employed as Assistant General Counsel by the Boston Redevelopment Authority from January 1, 1968 until April 18, 1980.

While attending Roxbury Memorial High School in 1937, in the City of Boston, my homeroom teacher, Mr. Joseph F. Flynn recommended that I work as a school youth aid under the National Youth Administration Program at Roxbury Memorial High School. I worked as a school youth aid under the National Youth Administration at said school from December, 1937 until June, 1938 and again from September, 1938 until May, 1939. My job was to clean the classroom. I was paid thirty cents (\$.30) per hour and worked $1\frac{1}{2}$ hours each day, not to exceed 20 hours per month. My homeroom teacher assigned me the work to do and supervised my performance.

November 28, 1990

Dated

Arthur G. Coffey
Arthur G. Coffey

MIDDLESEX, SS.

Subscribed and sworn to before me at Cambridge, Massachusetts, this 28th day of November, 1990.

Theresa Jean Mosher
Theresa Jean Mosher

Notary Public

My Commission Expires:

April 23, 1991

AFFIDAVIT

My name is John E. Driscoll. I reside at 123 Richland Road, Norwood, Massachusetts. I attended Roxbury Memorial High School with Arthur G. Coffey in the years 1937, 1938 and 1939. We were in the same homerooms together and I saw him working as a school aid under the National Youth Administration Program in the years of 1937, 1938 and 1939. I saw him cleaning the classrooms and erasing and inking the blackboards.

November 28, 1990

DATED

John E. Driscoll

John E. Driscoll

MIDDLESEX, SS.

Subscribed and sworn to before me at
Cambridge, Massachusetts, this 28th
day of November, 1990.

Theresa Jean Mosher
Theresa Jean Mosher

Notary Public

My Commission Expires:

April 23, 1991

Bostonian

YEAR BOOK

Class of

1939

ROXBURY
MEMORIAL
H. S. BOYS

PRINTED AND EDITED BY THE STUDENTS

Volume XI Number 5

The Faculty

ROBERT B. MASTERSON, Head Master

ENGLISH

FREDERICK H. DOLE, Head
CHARLES F. COVENEY
THOMAS A. DEELY
ANDREW L. GEMMEL
EDWARD J. GOLDEN

WILLIAM J. GROSS
MARTIN A. MURRAY
FRANCIS J. O'CONNOR
EUGENE J. O'NEIL
PAUL J. THAYER

HISTORY

BERNARD F. DONOVAN, Head
FRANCIS E. GIBBONS
ALBERT F. LANDRIGAN

PAUL F. PEARSON
HUBERT J. POWDERLY
EMMETT J. REARDON

ANCIENT LANGUAGES

HARRY A. GRANT, Head
THOMAS CAMPBELL

JAMES H. LOCKE
STIMSON WYETH

MODERN LANGUAGES

ANDREW R. McCORMICK, Head
JOHN J. DOHERTY

GEORGE S. HENNESSY
JOHN F. KEANE

MATHEMATICS

JAMES D. RYAN, Head
GEORGE R. FAXON
GEORGE J. KEARNS

CHARLES E. SCHROEDER
CHARLES W. SHEEHAN
WALTER F. WALWORTH

SCIENCE

CLARENCE B. HILL, Head
FRANK L. P. ALCIERE
WILLIAM M. EDMONSTONE

HARRY FIRGER
FRED HOLMES
EBEN ROSENFELD

COMMERCIAL BRANCHES

THADDEUS J. KEEFE, Head
WILLIAM J. BOND
EDWIN F. BUTTERS, JR.
WILLIAM H. DUGAN
JOSEPH F. FLYNN
JOHN GRIFFIN

FRANK C. GRILLO
JOHN J. A. HENNESSEY
CHARLES A. HUGHES
RICHARD A. McCARTHY
FRANK D. SHEA

PRINTING

PATRICK J. SMITH, Head
PHILIP A. BORTNICK
W. J. IRVING BROWN
PAUL B. CRUDDEN
CHARLES M. DOHERTY
FREDERICK L. EAMES
ALBERT F. HANRAHAN

JOHN S. MAHONEY
JOHN A. RICE
FRANK P. RICH
CHARLES J. RIDEOUT
CYRIL W. SHOVELIER
EDWARD TERRENZI

ART DEPARTMENT

MORRIS GREYSER

PETER F. KEAN

MILITARY DRILL

CAPT. JAMES J. KELLEY

MARY A. DONOVAN, Secretary

MARY N. McMORROW, Clerical Assist.

SCHOOL PHYSICIAN

DR. HARRY KORB

CUSTODIAN

PATRICK M. CONNOLLY

THE BOSTONIAN - CLASS OF 1939

MILTON S. CLARK "Milt"

"Full of gentle kindness his looks and language are."

Room Treasurer (3,4); Patrol (4).

Photo-Engraver

Wentworth



HERBERT O. CLARKE

"You hear this boy laughing? You think he's all fun?

But the angels laugh too, at the good he has done..."

Honor Roll (3); Chemistry Club (4); Photography Club (2);

Biology Club (3); Orchestra (4); Patrol (4).



ARTHUR G. COFFEY "Art"

Not La Touraine

Not Maxwell House

But just Coffey.

Honor Roll (2); Track (2,4); Switchboard (3);

Lunch Counter (3)

Accountant

Bentley



JOSEPH COGLIANO "Little Joe"

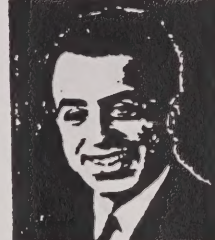
"I am the man of a thousand smiles of merry witchery..."

Honor Roll (2); Patrol (3); Lunch Counter (4) Captain (4);

Student Council Alternate (3).

Business

Burdett College



HENRY COHEN "Hank"

"Be not offended:

I speak not as in absolute fear of you."

Honor Roll (1,2,3,4); Patrol (4); Bostonian (2,3); Associate

Editor (4); Elector (3,4); Year Book (4); Room Treasurer

(2); Alternate Students Council (3,4); Switchboard (4); Class

Day Committee (4); Alumni Association Committee (4).

Association Committee (4).

Accounting

Boston University



SIDNEY COHEN "Sid"

Not contract

Just contact.

Honor Roll (4); Switch Board (4); Patrol (4); Variety

Show (3).

New England Aircraft School



THE BOSTONIAN - CLASS OF 1939

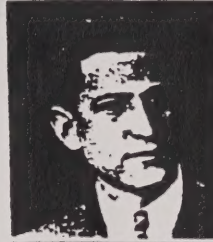
DANIEL DONIGER "Dan"

"There are times when he tries men's souls."

Patrol (3,4).

Salesman

Boston University



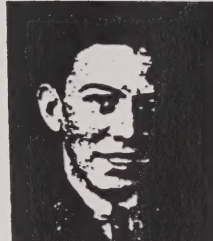
THOMAS F. DONOVAN "Dunnie"

Tallest of boys, or shortest of men.

He seems in stocking feet, but four feet ten.

Captain (3,4).

Wentworth Institute



JOHN E. DRISCOLL "Mite"

A "Mitey" man is he.

Honor Roll (2,3); Spanish (3); Lunch Counter (4).

Chauffeur



WILLIAM R. EGAN "Billy"

Billy has a backbone of steel and a heart of gold.

Patrol Captain (4).

Advertising Manager

Boston University C.B.A.



FRANCIS L. FABIANO "Fabie"

If you would reach the promised land.

Have a pass in your hand.

Track (1,2); Football (2,3); Chess Club (4); Patrol (4); Public Speaking (2).

Engineer



ALBERT J. FEINBERG "Joe"

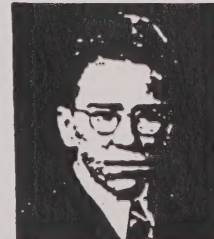
Show me an organization

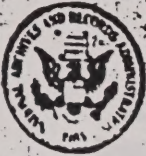
To which Joe doesn't belong.

And I'll show you an organization

That isn't.

Picture Committee (4); Class Day Committee (4); Spelling Bee Winner (3); Public Speaking (3); Assembly Committee (4); Band (2,3,4); First Lieutenant (4); Motion Picture Club (Secretary) (4); First Prize Drum Competition (2,3); Orchestra (2,3); Photography Club (Treasurer and Vice President) (3,4).





National Personnel Records Center

Civilian Personnel Records

111 Winnetka Street St. Louis, Missouri 63118

November 15, 1989

Arthur G. Coffey
77 Oriole Street
West Roxbury, MA 02132

SSN: 016-14-3566

DOB: 2-22-21

Dear Mr. Coffey:

This is in response to your inquiry of November 2, 1989, requesting records of employment for retirement purposes.

A search of our records did not reveal a record of the claimed Federal employment. If additional information or documentation can be submitted to verify the information shown in the request or to otherwise support the claimed employment, we will make a further search. If you resubmit your request, please return all correspondence.

Requests involving retirement or insurance information or medical records should be sent to the Office of Personnel Management, Compensation Group, 1900 E Street NW, Washington, D.C. 20415.

Sincerely,

[Handwritten signature]

For
THELMA MARTIN
Chief, Civilian Reference Branch



ARTHUR J. CURLEY
DISTRICT

December 13, 1989

Ms. Thelma Martin, Chief
Civilian Reference Branch
National Personnel Records Center-
Civilian Personnel Records
111 Winnebago Street
ST. Louis, Missouri 63118

Dear Ms. Martin,

I have received your letter of November 15, 1989, a copy of which is attached hereto.

The employment records I seek are for the City of Boston retirement purposes. Under Massachusetts law service in the City of Boston as a School Aid under the National Youth Administration (N.Y.A.) is considered employment by the City of Boston for retirement purposes.

I worked as a School Aid under the direction of the City of Boston School Department at Roxbury Memorial High School during 1937, 1938 and until May, 1939. I graduated from high school in June, 1939. When I was originally employed, my supervisor was my high school teacher, Joseph Flynn. The work was under the Federal Security Administration National Youth Administration Program and I was paid by the U.S. Government.

I am enclosing a transcript received from your office by a then neighbor of mine, Leo Dooley who was similarly employed at Boston English High School. You will note that on his transcript/ statement is the notation "Payroll records prior to 10/1/39 have been destroyed. All personnel records for N.Y.A. youth workers have been destroyed in accordance with congressional authority". It would appear

ATTACHMENT VII

2 of 3

from this statement that my personnel records have been destroyed. If I could receive such a statement from you regarding my request for employment records as a N.Y.A. Youth worker school aid I will submit them to the City of Boston/ State Retirement Authorities and that may be sufficient.

Sincerely yours,

Arthur G. Coffey

Address at time of employment:

11 Copeland Street
Roxbury, Mass.

Present Address:

77 Oriole Street
West Roxbury, Mass. 02132

Date of Birth:

February 22, 1921

Social Security Number:

016-14-3566

AGC/t.m.



National Personnel Records Center

Civilian Personnel Records

111 Winnebago Street St. Louis, Missouri 63118

12-22-89

✓ Coffey, Arthur
77 Oriole Street
West Roxbury, Ma. 02132

SSN: 016-14-3566

DOB: 2-22-21

Dear Mr. Coffey:

This is in response to your inquiry of December 13, 1989, requesting verification of National Youth Administration employment.

We find no record of employment by the National Youth Administration. From the information furnished, your employment with the NYA was in the capacity of a youth worker. All personnel and payroll records for NYA youth workers have been destroyed in accordance with Congressional authority.

Sincerely,

For SS
THELMA J. MARTIN
Chief, Civilian Reference Branch

CITY OF BOSTON — BUDGET DEPT.

PERSONNEL RECORD

NAME IN FULL	Coffey, Arthur X G.			P. R. NO.	
PRESENT ADDRESS	8 Hamilton Street, Dorchester 76 Adams Street			77 Oriole St., West Roxbury	
DATE OF BIRTH	2-22-21	PLACE OF BIRTH	Boston	SINGLE ☐	MARRIED ☐
WAR SERVICE				WIDOWED ☐	DIVORCED ☐

W.W. I ☐ W.W. II ☒ DEPT.

PREV. CITY EMPLOYMENT

RATING

SALARY

PERIOD

POSITION & COMPENSATION RECORD

CODE NO.	DEPT.	TITLE OF POSITION	SALARY	EFF. DATE	REMARKS
	Law	Asst. Corporation Counsel	3,500.00	2-8-50	Appointed
C	"	" " "	72.12	6-6-51	Increase
	"	" " "	80.55	12-12-51	Increase
1-01-1-C	"	" " "	99.73	12-24-52	Increase
	Law	Asst. Corporation Counsel	104.52	9-4-57	Increase
			117.75*	10-1-58	Increase - Adj
	Law	Corporation Counsel (13,500)	123.75	7-1-59	Gen Inc
		" " (13,500)	258.62	1-4-60	Appointed
		Corporation Counsel (305.50)	258.62	5-1-66	" Mayor-5-1-6
			16,000.	7-1-64	C. Ordinance 1
	Admin. Services	Director of Admin. Services	17,500.	10-17-66	Appt. for term
	Admin. Div.				1st Monday of
					following next
					Biennial Mun. F

*Assigned to Treasury-Collecting

(over)

NAME

[illegible]

ATTACHMENT X

April 18, 1980

DATE

To the State-Boston Retirement
System and Collector-Treasurer
of the City of Boston

In accordance with the provisions of Section 90B of Chapter 32,
Mass. General Laws, I hereby waive and renounce for myself, my
heirs and legal representatives the full amount of the
retirement allowance which would otherwise be payable to me,
such waiver to take effect as of April 19, 1980 and
to remain in full force and effect until February 22, 1991

x Arthur D. Coffey
Signature

Retirement Number

77 Oriole Street
West Roxbury, Mass. 02132
Address

File this form in Duplicate



The Commonwealth of Massachusetts
MILITARY DIVISION
THE ADJUTANT GENERAL'S OFFICE, WAR RECORDS SECTION
Room 1000, 100 Cambridge Street, Boston, Mass. 02202

2/20/1986

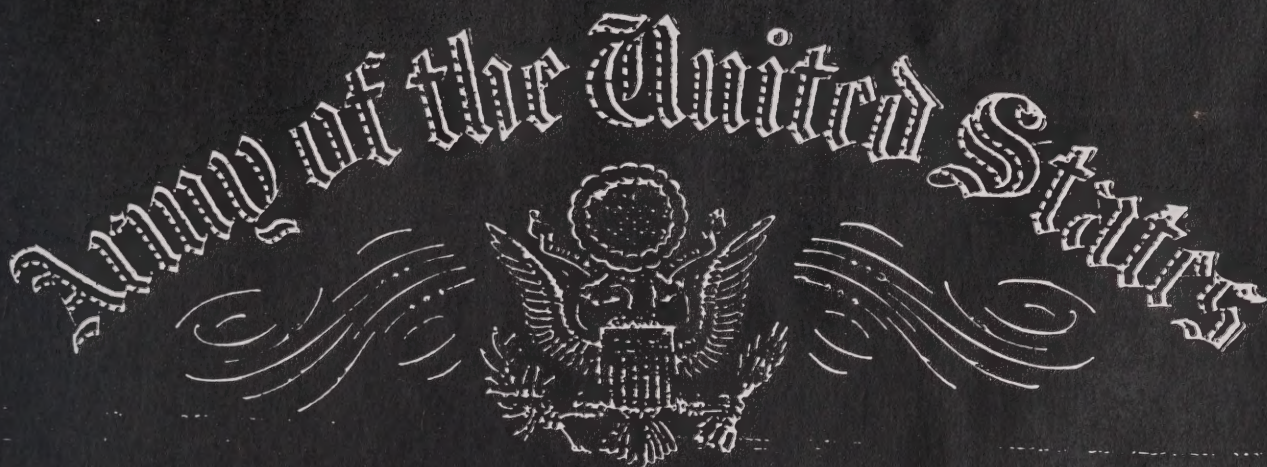
1. This is to certify that according to the records of this office:

COFFEY, Arthur George Service No. 11 069 018 whose
Home of Record at time of enlistment, was 31 Waverly St., Roxbury, Mass.
HE was enlisted in the service of the United States
21 April 1942 at Boston, Mass., and began active duty as
a Private in the United States Army
on 21 April 1942

2. Active service terminated as Pvt 1st cl. 423rd AAF BU, USAAC
on 16 November 1945, at Portland, Oregon
by reason of having been Honorably Discharged.

REMARKS:

Robert E. Feeney
ROBERT E. FEENEY
Military Archivist
FOR The Adjutant General



Honorable Discharge

This is to certify that

ARTHUR G COFFEY

11069018 Private First Class 423d Army Air Force Base Unit

Army of the United States

*is hereby Honorably Discharged from the military
service of the United States of America.*

*This certificate is awarded as a testimonial of Honest
and Faithful Service to this country.*

Given at ARMY AIR FORCE SEPARATION BASE
Portland Oregon

Date 16 November 1945

GLENN M. HERRING
Major, Air Corps

ENLISTED RECORD AND REPORT OF SEPARATION HONORABLE DISCHARGE

1. LAST NAME - FIRST NAME - MIDDLE INITIAL COFFEY ARTHUR G		2. ARMY SERIAL NO. 11 C69 018	3. GRADE Pfc	4. ARM OR SERVICE AC	COMPONENT AUS
5. ORGANIZATION 423d AAF Base Unit		7. DATE OF SEPARATION 16 Nov 45	8. PLACE OF SEPARATION AAF Sep Base Portland Oreg		
9. PERMANENT ADDRESS FOR MAILING PURPOSES 8 Hamilton St Dorchester Suffolk Mass		10. DATE OF BIRTH 22 Feb 21	11. PLACE OF BIRTH Boston Mass		
12. ADDRESS FROM WHICH EMPLOYMENT WILL BE SOUGHT See 9		13. COLOR EYES Blue	14. COLOR HAIR Brown	15. HEIGHT 5 8	16. WEIGHT 137
18. RACE WHITE		19. MARITAL STATUS SINGLE		20. U.S. CITIZEN YES	
21. CIVILIAN OCCUPATION AND NO. Plaster's Helper 7-97.160					

MILITARY HISTORY

24. DATE OF ENTRY INTO ACTIVE SERVICE 21 Apr 42		25. PLACE OF ENTRY INTO SERVICE Boston Mass	
26. REGISTERED YES		27. LOCAL S.S. BOARD NO. 21 Apr 42	
28. COUNTY AND STATE MASS		29. HOME ADDRESS AT TIME OF ENTRY INTO SERVICE 31 Waverly St Roxbury Mass	
30. MILITARY OCCUPATIONAL SPECIALTY AND NO. Aerial Gunner 611		31. MILITARY QUALIFICATION AND DATE (i.e. Infantry, Aviation and other branches) AAF Air Crew Member Badge Jan 45	

32. BATTLES AND CAMPAIGNS
None

33. DECORATIONS AND CITATIONS
American Theater Ribbon 1 Service Stripe Victory Medal World War II

34. WOUNDS RECEIVED IN ACTION
None

35. LATEST IMMUNIZATION DATES				36. SERVICE OUTSIDE CONTINENTAL U.S. AND RETURN		
SMALLPOX	TYPHOID	TETANUS	OTHER (specify)	DATE OF DEPARTURE	DESTINATION	DATE OF ARRIVAL
Imm	St	St	Yellow Fever	None		
Mar 45	Mar 45	Mar 44	Aug 44			
37. TOTAL LENGTH OF SERVICE				38. HIGHEST GRADE HELD		
CONTINENTAL SERVICE				A/C		
YEARS	MONTHS	DAYS	YEARS	MONTHS	DAYS	
3	6	26	0	0	0	

39. PRIOR SERVICE
None

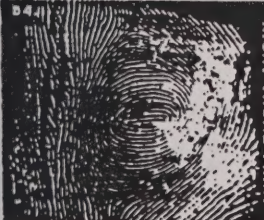
40. REASON AND AUTHORITY FOR SEPARATION
AR 615-365 15 Dec 44 and WD Ltr WD GAP 220.8 Disch of Surplus Enl Pers in ZI Dtd 22 Sep 45

41. SERVICE SCHOOLS ATTENDED
Aerial Gunnery HAAF Harlingen Texas

43. CONCESSIONS FOR PAY PURPOSES			44. MUSTERING OUT PAY			45. TRAVEL PAY			46. TOTAL ADJUSTED PAY		
YEARS	MONTHS	DAYS	TOTAL	THREATMENT	None	\$	163.25	\$	263.25	J Mathiesen 1st Lt AC	
3	6	26	200	100							

INSURANCE NOTICE

48. KIND OF INSURANCE		49. HOW PAID		50. Effective Date of Allotment Discontinuance		51. Date of Next Premium Due (One month after 50)		52. PREMIUM DUE EACH MONTH		53. INTENTION OF VETERAN TO	
Nat. Serv.	U.S. Govt.	None	Allotment	Direct to V. A.	30 Nov 45	31 Dec 45	6.60	X			

 RIGHT THUMB PRINT	65. REMARKS (This space for completion of above items or entry of other items specified in W 1)	
	(31) M31 Pistol Jan 45 (35) Typhus Aug 44 Cholera Jul 44 ASR Score (2 Sep 45)-52 Lapel Button Issued	
66. SIGNATURE OF PERSON BEING SEPARATED 		67. PERSONNEL OFFICER (Type name, grade, and position) EDWARD R HECK Captain Air Corps



RETIREMENT BOARD COPY
(ORIGINAL)
[Employee seeking retirement should file this application and six copies thereof with his department head for transmittal to the
Boston Retirement Board.]

VETERAN'S APPLICATION FOR RETIREMENT

BOSTON, MASSACHUSETTS, April 18, 1980

To the Retiring Authority

I hereby apply under General Laws, ch. 32, sec. 58, as amended, for retirement from active service at seventy two per cent (72%) of the highest annual rate of compensation payable to me while I was holding the grade now held by me — such retirement to become effective at the close of business on Tuesday next following the approval of this application by the Retiring Authority. April 18, 1980.

My full name is Arthur G. Coffey

I reside at 77 Oriole Street, West Roxbury, Mass. 02132

I was born on February 22, 1921 and have now reached the age of 59
(If application is under sec. 57, attach to original application certificate evidencing date of birth)

As more fully appears from the certificate of military service submitted herewith, I am a person who has served in the Army, Navy, Coast Guard or Marine Corps of the United States, or in a corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States, in time of war or insurrection, or in a campaign or expedition for which a campaign badge has been authorized by the Congress of the United States and whose last discharge or release from active duty was under conditions other than dishonorable. (Attach to original application appropriate certificate of military service.)

I am now employed as Assistant General Counsel in the Legal Division of the Boston Redevelopment Authority
~~Department of the City of Boston~~
City of Boston — County of Suffolk

The highest annual rate of compensation payable to me while I was holding the grade now held by me was Thirty four thousand eight hundred fifty two and 00/100 (\$34,852.00) dollars.
(Write amount in words. Include any bonuses paid in lieu of additional salary or as a temporary wage increase and any allowance for maintenance. See G. L., c. 32, s. 56, for computation of maintenance allowance.)

I have been in the service of the City of Boston and Boston Redevelopment Authority for a total period of thirty one (31) years
City of Boston — County of Suffolk
(State number in words)
(See G. L., c. 32, s. 58A) (Attach to original application certificate (s) of service for departments other than department where now employed)

My employment by the City of Boston (School-N.Y.A.) first began on December 1, 1937; and
Boston Redevelopment Authority first began on January 1, 1968
City of Boston — County of Suffolk
(Give date)

(NOTE: Veteran whose employment first began after June 30, 1939, is NOT eligible for retirement under G. L., c. 32, ss. 56-60, inclusive.)

~~I am incapacitated for active service. I believe the cause of my incapacitation to be~~

(If application is under sec. 57, certificate of medical panel must be filed with Retiring Authority before retirement can become effective.)

~~I have no total income from all sources exclusive of any sum received from the Government of the United States as a pension for war service, not exceeding one thousand dollars~~

(If application is under sec. 58, strike out the statements concerning incapacity and income)

Subscribed and sworn to before me at Cambridge, Boston, Massachusetts, this 28th day of November, 1980.

Arthur G. Coffey
Signature of Applicant

Theresa Jean Mosher
Notary Public
My Comm. SSN
Exp. 12/31/91
April 23, 1991

CERTIFICATE OF DEPARTMENT HEAD

I hereby certify that the statements in the foregoing application concerning the applicant's present employment, is highest annual rate of compensation, the period of his service, and the commencement of his employment are correct.

Signature

Title

NOTE. Before application for retirement is made out, this form must be executed by veteran and endorsed as filed with the Boston Retirement Board. This form must be accompanied by certificates evidencing date of birth of applicant, date of birth of beneficiary, and date of marriage of spouse to applicant, if spouse is designated beneficiary.

ELECTION OF OPTION

Boston, Massachusetts April 18 19 80

To the Retiring Authority for the City of Boston / Boston Redevelopment Authority
City of Boston - County of Suffolk

Pursuant to General Laws, chapter 32, section 58B, as amended, I hereby elect to receive a lesser retirement allowance payable to me during my lifetime than will be stated in my application for retirement under General Laws, chapter 32, section 58, as amended, with the provision that if I die leaving as a survivor

Betty L. Coffey wife May 10, 1923
Name of beneficiary * Relationship to veteran who was born on .

two thirds of the yearly amount of such lesser retirement allowance shall be continued during the lifetime of, and be paid to, said beneficiary.

Such lesser retirement allowance shall be of such yearly amount that the value, on the date of my retirement, of the prospective payments to me and to my beneficiary shall be the actuarial equivalent of the value on such date of the full retirement allowance that I would be entitled to under the provisions of said section 58.

x Arthur D. Coffey
Signature of veteran

*Eligible beneficiary is defined as: spouse, child or children under age eighteen, father, mother, sister, or brother of such veteran.



REGISTRY DIVISION, CITY OF BOSTON

COUNTY OF SUFFOLK, COMMONWEALTH OF MASSACHUSETTS, UNITED STATES OF AMERICA

Certificate No 94815

CERTIFIED COPY OF RECORD OF BIRTH IN OFFICE OF THE CITY REGISTRAR

II

ACTING

I, the undersigned, hereby certify that I hold the office of City Registrar of the City of Boston, and have the custody of the

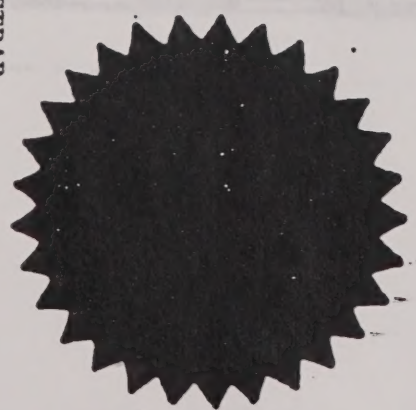
Records of Births, Marriages and Deaths required by law to be kept in said City; and I certify that the following facts appear on said Records:

2834	Date of Birth	February 22, 1871	Name of Child	Elizabeth Marie Coffey
Male	SEX		NAME, SURNAME AND BIRTHPLACE OF FATHER	Arthur J. Coffey Boston Mass
White	COLOR		NAME, MAIDEN NAME AND BIRTHPLACE OF MOTHER	Elizabeth (Wheeler) Boston Mass
Boston	PLACE OF BIRTH		RESIDENCE OF PARENTS	Boston
Ma	OCCUPATION OF PARENT		NAME AND ADDRESS OF INFORMANT	Mrs C. W. McDonald
Dorchester	DATE OF RECORD	March 1, 1871		

I further certify that by annexation, the Records of the following named cities and towns are in the custody of the City Registrar of Boston:—

ANNEXED	ANNEXED
East Boston.....1837	Charlestown.....1874
South Boston.....1804	Brighton.....1874
Roxbury.....1868	West Roxbury.....1912
Dorchester.....1870	Hyde Park.....1912

WITNESS my hand and the SEAL of the City of Boston, REGISTRAR
on this day of JAN 10 1871 A. D. 1871



Quarrel A. McCarthy

City Registrar

By Chapter 314 of the Acts of 1892, "the certificates or attestations of either Assistant City Registrar shall have the same force and effect as that of the City Registrar."

ACTING

P. 36A - CLASS 4

1. PLACE OF BIRTH
STATE OF TEXAS

TEXAS DEPARTMENT OF HEALTH
BUREAU OF VITAL STATISTICS
CERTIFICATE OF BIRTH

CITY OR PRECINCT NO. Alamo

GIVE STREET AND NUMBER OR NAME OF INSTITUTION

2. FULL NAME OF CHILD
RESIDENCE OF THE MOTHER

Beatrice Jane Barnette

CITY

COUNTY

STATE

3. SEX

4. TWIN, TRIPLET, OTHER

5. NUMBER IN ORDER OF BIRTH

6. LEGITIMATELY

7. DATE OF BIRTH

Female

1

1

Yes

May 10 1923

1924

8. FULL NAME

SOCIAL SECURITY NUMBER

FATHER

MOTHER

Geo. C. Barnette

Beatrice Jane Barnette

9. POSTOFFICE ADDRESS

10. POSTOFFICE ADDRESS

Alamo, Texas

Alamo, Texas

10. COLOR OR RACE

11. AGE AT LAST BIRTHDAY

52 (YEARS)

12. COLOR OR RACE

13. AGE AT LAST BIRTHDAY

37 (YEARS)

13. TRADE, PRO- FESSIO

14. INDUSTRY OR BUSINESS IN WHICH ENGAGED

Alamo, Texas

15. TRADE, PRO- FESSIO

16. INDUSTRY OR BUSINESS IN WHICH ENGAGED

Alamo, Texas

Alamo, Texas

17. NUMBER OF CHILDREN BORN TO THIS MOTHER, INCLUDING THIS BIRTH

5

18. NUMBER OF CHILDREN BORN TO THIS MOTHER AND NOW LIVING

5

SIGNATURE OF INFORMANT

ADDRESS OF INFORMANT

Alamo, Texas

22. MEDICAL ATTENDANCE

I HEREBY CERTIFY TO THE BIRTH OF THIS CHILD WHO WAS BORN ALIVE AT

M. ON THE ABOVE DATE

AND THE PROPHYLACTIC USED TO PREVENT OPHTHALMIA NEONATORUM WAS

M. D.

MIDWIFE

Alamo, Texas

DATE

1924

SIGNATURE

MIDWIFE

POSTOFFICE ADDRESS

TEXAS

FILED FOR RECORD THE 5 DAY OF June

RECORDED THIS 5 DAY OF June

1923 AT

O'CLOCK M. AND O'CLOCK M.

BY

DEPUTY.

COUNTY CLERK OF

COUNTY, TEXAS.

B-36A

County Clerk's Certificate

STATE OF TEXAS.

COUNTY OF Hill

I, Paul Hill

COUNTY CLERK, IN AND FOR

Hill COUNTY, TEXAS.

DO HEREBY CERTIFY THAT THIS RECORD IS A
TRUE AND CORRECT COPY OF BIRTH CERTIFICATE

OF Betty Lou Bonner

AS THE SAME APPEARS IN

VOL. 3 PAGE 254

BIRTH RECORD OF

Hill COUNTY, TEXAS.

GIVEN UNDER MY HAND AND SEAL OF OFFICE.

THIS 28 DAY OF

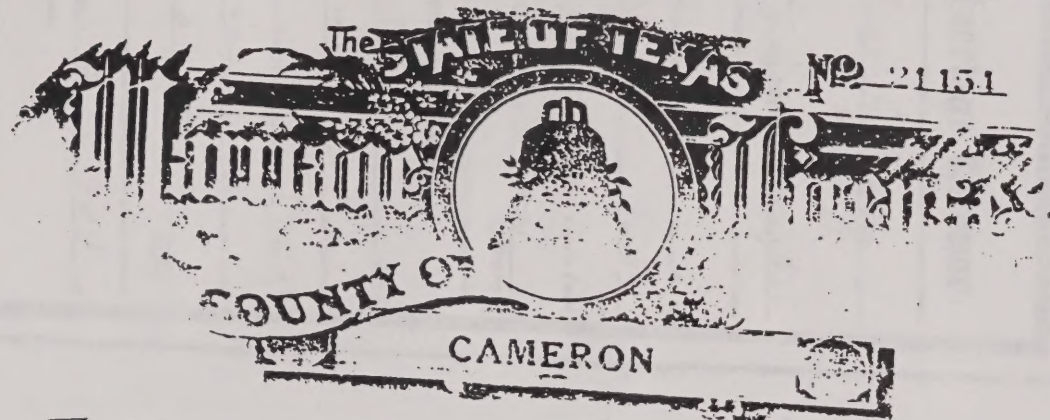
April 1942

Paul Hill
COUNTY CLERK.

Paul Hill COUNTY, TEXAS.

PRINTED BY PLANET PRINTING COMPANY, DALLAS

Paul Hill
Deputy



To any Regularly Licensed or Ordained Minister of the Gospel, Justice of the Peace, District or County Court, or any Justice Peace in the State of Texas: Greeting!

You are hereby authorized to solemnize the
rites of matrimony

Between Mr. Arthur G. Coffey
and Miss Betty Lou Benister
and make due return to the Clerk of the County Court of said County within
sixty days thereafter, certifying your action under this license.

Witness my official signature and seal of office at
Brownsville Texas the 14 day of June 1944
H. D. Seago Clerk of County Court
By Heabel Lopez Deputy
CAMERON County, Texas

I, F. D. Nance
on the Eighteenth day of November hereby certify that
I united in Marriage Mr. Arthur G. Coffey
and Miss Betty Lou Benister
Witness my hand this 19th day of November 1944
F. D. Nance F. D. Nance
Justice of The Peace, Harlingen, Texas

Returned and filed for record the 21 day of November 1944
and recorded the 21 day of November 1944 in Book 2 Page 144
By H. D. Seago Deputy
County Clerk

Marriage License.

William H. Coffey
AND
Elizabeth Baughman

Issued this 1st day of July 1944

Wm. H. Coffey Clerk County Court

Elizabeth Baughman Deputy

RETURNED AND FILED FOR

Record this 1st day of July 1944 and recorded

in 211 day of July 1944

Wm. H. Coffey Clerk County Court

Elizabeth Baughman Deputy

Recorded in Book 82 Page 144 of
Marriage Records.

ATTACHMENT XIV

DATE OF BIRTH	2/22/21	PLACE	Boston, Mass.	CITIZENSHIP	USA
SEX	M	NO. OF DEPENDENTS	8	RESERVE STATUS: ACTIVE ☐ INACTIVE ☐ NONE ☒	
MILITARY SERVICE	Yes	FROM	1942	TO	1945
PREVIOUS EMPLOYMENT		HONORABLE DISCHARGE?	Yes		

EDUCATIONAL INSTITUTION	MAJOR	DEGREE	DATES	CREDITS
City Boston	Dir. Admin. Services Corporation		10/66 - 12/67	\$20,000/yr
City Boston-Law Dept.	Counsel		1/60 - 10/66	16,000/yr
City Boston-Law Dept.	Asst. Corp. Counsel		2/50 - 1/60	6,500/yr
Roxbury Memorial			1939	Grad.
Suffolk Univ.	Pre-Legal		1946-47	2 yrs
Suffolk Univ. Law School	Law	LLB cl	1947-49	Grad 3 yrs
Northeastern Univ.	Municipal law		1952-53	1 yr

BRA TITLES	DATES	LAST SALARY INCREASE
Legal Officer \$20,000/yr	1/1/68	11/7/68 CHANGE TITLE
Asst General Counsel 20,000/yr	1/1/68	8/1/70 \$20000-20400/yr
Asst General Counsel 20,400/yr	3/1/70	7/30/73 \$20400-21420/yr
Asst General Counsel 21,420/yr	7/30/73	7/1/74 \$21420-22919/yr

NAME COFFEY, Arthur G. ADDRESS 77 Oriole St., West Roxbury 02132

BRA TITLES	DATES	COFFEY LAST SALARY INCREASE
Asst General Counsel \$22,919/yr	7/1/74	11/4/74 \$22919-25,500/y
Asst General Counsel 25,500/yr	11/4/74	1/27/75 \$25500-26,775/y
Asst General Counsel 26775/yr	1/27/75	1/5/76 \$26775-27275/yr
Asst General Counsel 27,275/yr	1/5/76	7/3/77 \$27,275-28,912/y
Asst General Counsel 28,912/yr	7/3/77	10/17/77 \$28912-29885/yr
Asst General Counsel 29,885/yr	10/17/77	7/10/78 \$29885-31379/yr
Asst Genl Counsel 31,379/yr	7/10/78	
Asst Genl Counsel 32,879/yr.	3/2/79	
Asst Genl Counsel 34,852	7/1/79	4/18/80 RESIGNED

NAME
COFFEY, Arthur G.

ADDRESS
77 Oriole St., West Roxbury 02132

PHONE 323 - 0150

ATTACHMENT FV
1052



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

JOHN W. MCCORMACK BUILDING

ROOM 1101

ONE ASHBURTON PLACE • BOSTON, MA 02108

727-9380

JOHN J. MCGLYNN
COMMISSIONER

JOSEPH I. MARTIN
FIRST DEPUTY COMMISSIONER
BARBARA J. PHILLIPS
COUNSEL

January 24, 1991

Bernice McLennan
Director of Human Resources
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

Dear Ms. McLennan:

This Division is in receipt of the documents submitted in connection with the application of Arthur Coffey for a veteran's retirement pursuant to the provisions of G.L. c. 32, s. 58B, to become effective February 22, 1991.

Pursuant to G.L. c. 7, s. 50, this Division has reviewed the documentation of pre-1939 employment and military service which are prerequisite to such an application.

Please be advised that our review is completed and that a pension allowance of \$18,859.68 and a survivorship allowance of \$12,573.12 are hereby verified by this Division.

Sincerely,

A handwritten signature in dark ink, appearing to read "John J. McGlynn".

John J. McGlynn
Commissioner

JJM/BP/cmr
0070R

Enclosure

cc: Boston Retirement Board

VETERAN'S INFORMATION SHEET

TO BE FILED WITH PERA BY THE RETIREMENT BOARD WHEN A MEMBER APPLIES FOR BENEFITS UNDER SECTION 58 OR 58B OF CHAPTER 32 OF THE MASSACHUSETTS GENERAL LAWS.

VETERAN'S INFORMATION SHEETDate January 18, 1991

The _____ Retirement Board hereby certifies that we have reviewed the application of Arthur G. Coffey and voted on the day of _____ to grant benefits in accordance with section 58B of said Chapter 32.

<u>Arthur G. Coffey</u>	<u>February 22, 1921 (70)</u>
Name of member	Date of birth
<u>April 18, 1980 2/22/91</u>	<u>\$34,851.92</u>
Date of retirement	Compensation at Retirement
<u>Betty L. Coffey</u>	<u>May 10, 1923 (67-9)</u>
Name of Spouse	Date of birth

To facilitate the approval of this application, enclosed are the following:

- (X) Copies of documents establishing the veteran status of the applicant
- (X) Copies of documents establishing whether the applicant was employed and paid for the rendering of his or her services by the Commonwealth of Massachusetts prior to June 30, 1939
- (X) A statement of years of creditable service, along with all known service dates

TO BE COMPLETED BY PERA UPON APPROVAL

Pension granted under section 58B
 Amount of Allowance \$ 18859.68

Survivor allowance granted under section 58B
 Amount of Allowance \$ 12573.12

ATTACHMENT XVI
1064

STATE-BOSTON RETIREMENT SYSTEM

ROOM 241, NEW CITY HALL
BOSTON, MASSACHUSETTS 02201

725-4300-11

Members of Retirement Board
THOMAS W. GATELY, Chairman

Elected Member

LEON STAMPS

City Auditor

JOHN J. JENNINGS

Appointed Member

JAMES F. O'DONNELL

Executive Officer

January 18, 1991

Bernice McLennan, Director of Human Services
Boston Redevelopment Authority
City Hall - 9th Floor
Boston, MA 02201

RE: Arthur G. Coffey
Soc. Sec. No. 016-14-1566

Dear Ms. McLennan:

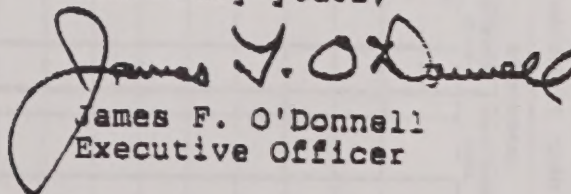
Please be advised that the records of this office show that the above-named person is an inactive member of this Retirement System.

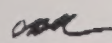
His account covers creditable service of thirty (30) years and two (2) months which is comprised of the following:

City Of Boston ... February 8, 1950 to December 31, 1967
Boston Redevelopment Auth. ... January 1, 1968 to April 18, 1980.

A copy of his account record is enclosed herewith.

Sincerely yours,


James F. O'Donnell
Executive Officer


JFO/CRC/SP
00940

JAN 22 '91 09:35 BRA7

[illegible]

[illegible]

NAME - LAST		FIRST	MIDDLE	EMPLOYMENT CERT. NO.	EMPLOYEE NO.	DEPT.	REG. (MONTH)	DATE OF BIRTH	
Coffey, Arthur		81		RA-1010		BRD	11	016-11-2566	
NOTES		(1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)		REGULAR DEDUCTIONS MADE ON ACCOUNT OF REGULAR COMPENSATION RECEIVED		D. DEDUCTIONS, INCLUDING DEPOSITS, MADE PRIOR TO JANUARY 1, 1946		1-TOTAL INTEREST ALLOWED PRIOR TO JAN. 1, 1946 ON DEDUCTIONS IN D	
DEDUCTIONS ON OR AFTER JANUARY 1, 1946		DEDUCTIONS PRIOR TO JANUARY 1, 1946		REGULAR		ADDITIONAL			
MONTH	YEAR	MONTH	YEAR	MONTH	YEAR	MONTH	YEAR		
1	1945	1	1945	1	1945	1	1945		
2	1945	2	1945	2	1945	2	1945		
3	1945	3	1945	3	1945	3	1945		
4	1945	4	1945	4	1945	4	1945		
5	1945	5	1945	5	1945	5	1945		
6	1945	6	1945	6	1945	6	1945		
7	1945	7	1945	7	1945	7	1945		
8	1945	8	1945	8	1945	8	1945		
9	1945	9	1945	9	1945	9	1945		
10	1945	10	1945	10	1945	10	1945		
11	1945	11	1945	11	1945	11	1945		
12	1945	12	1945	12	1945	12	1945		
1	1946	1	1946	1	1946	1	1946		
2	1946	2	1946	2	1946	2	1946		
3	1946	3	1946	3	1946	3	1946		
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7	1946	7	1946	7	1946	7	1946		
8	1946	8	1946	8	1946	8	1946		
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11	1946	11	1946	11	1946	11	1946		
12	1946	12	1946	12	1946	12	1946		
1	1947	1	1947	1	1947	1	1947		
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2	1948	2	1948	2	1948	2	1948		
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4	1948	4	1948	4	1948	4	1948		
5	1948	5	1948	5	1948	5	1948		
6	1948	6	1948	6	1948	6	1948		
7	1948	7	1948	7	1948	7	1948</		